

IN The U.S. District Court, Middle District
of Davidson County, Nashville, Tennessee

RECEIVED
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MAR 01 2022

Michael Bailey

Petitioner,

VS.

Tony Mays, Warden

Respondent,

03-22 0149

Case No. # W2019-02152

Case No. # 09-02887 Count 1 and 2,
09-02888, # 09-02889, # 09-02890,
09-02891, # 09-02892,
09-02893 Count 1 and 2

Petition For Relief From a Conviction and Sentence
Under 28 U.S.C. § 2254 For Writ of Habeas Corpus
By a Person In State Custody. Nunc-Pro-Tunc "Now For Then"

Comes Now The Petitioner, Michael Bailey #221117, Prose,
In Personam, An State Inmate, and would
Respectfully ask This Honorable Court to Grant his
Petition For Relief From a Conviction and Sentence
Under 28 U.S.C. § 2254 For Writ of Habeas Corpus By
a Person In State Custody, And The Petitioner Is Also
Using The Phrase "Nunc-Pro-Tunc meaning "Now For
Then" Bringing any Issue From The Beginning of his
Incarcerating until Now.

(1)

Grounds

- 1) Pursuant to T.C.A. 29-21-101, Any Person Imprisoned OR Restraint of Liberty under any Pretense whatsoever may Prosecute an Writ of Habeas Corpus to Inquire Into the Cause of such Imprisonment and Restraint.
- 2) T.C.A. 29-21-103, Authority, The Writ may be granted by any Judge of the Circuit OR Criminal Court, or by any Chancellor In Cases of Equitable Cognizance.

Petition

1. Name and Location of Court that Entered Judgment: Shelby County Justice Center, 201 Poplar Ave, Memphis, Tenn. 38103.
2. Date of Judgment of Conviction, 10-3-14.
3. The Crimes I Was Convicted on Was Aggr. Robbery and Aggr. Assault. Case No. 09-02887 Count 1, Aggr. Robbery, Count 2, Aggr. Assault, 09-02888, 89, 90, 91, 92, 93, Count 1 and 2 Were Aggr. Robbery.
4. I Plead Guilty to case No. 09-02887 Count 1 and 2, 89, 90, 91, 92, 93 - Count 1 and 2, and I Plead Not Guilty To Case No. 09-02888.

5. The Appeal Courts In Jackson, WI. Denied my Appeal and The Supreme Court Denied The Petitioners Application For Permission to Appeal on 5-9-16.

6. ON 10-2-15 The Petitioner Filed a Pro Se Petition For Post Conviction Relief. Petitioner amended his Petition and The Ground Raised In The Petition Was my Trial Counsel was ineffective For failing to adequately Investigate The case. The Petitioner alleged that his Guilty Pleas were unknowing and Involuntary made because They were Coerced by Trial Counsel, And In The Petitioner Supplemental Petitions, The Petitioners alleged That Trial Counsel Coerced him Into Pleading Guilty by Telling Petitioner she Could not win at trial and Leading him to believe That his Guilty Pleas Would Result in The Original Thirty (30) yrs Sentence Rather than the Consecutive Life Without Parole sentence he received.

7. ON 7-1-19 The Petitioner Had his Evidentiary hearing and The Petitioner Raised The Same Issues but his Post Conviction was Denied on 11-4-19

8, ON 9-13-21 The Appeal Court Denied The Petitioner
Tenn. R. App. P. 3 Appeal as of Right.

9, ON 2-10-21 The Tenn. Supreme Court Denied The
Petitioner TRAP II.

10. Petitioner Did Filed a Writ of Habeas Corpus on
Illegal and Void Sentence and Conviction In State
Court In Davidson County, Nashville, Tenn., on
3-30-21, and The Petition Was Denied on
8-30-21 For Failure To Raise a Claim upon Which
Relief Can be granted,

11, ON 11-29-21 The Petitioner Filed an Appeal To The
U.S. District Court, Middle District, In Davidson County,
Nashville, Tenn, The Decision and order For an Order
For An Writ of Habeas Corpus From The State Court on
The Illegal and Void Sentence and Conviction But The
District Court Return my Petition-Documents to The
Petitioner Saying I have NO case Pending Before Their
Court and are Insufficient to initiate a new federal
Civil action, Then The Courts said This Does not mean
That my Requests has been Denied or has been

Dismissed, and now The Petitioner has Filed an
Petition Under 28 U.S.C. 2254 For Writ of Habeas
Corpus By a Person In State Custody.

12, The Petitioner Wants to Raise This Grounds Again For
Relief In This Petition on T.C.A. 40-35-203(e) on
Imposition of Sentence About his Indictment In The
Above Case Numbers and offense In This Petition.

13, T.C.A. 40-35-203(e) Imposition of Sentence say
IF The Criminal offense For which The Defendant
Is Charge Carries an Enhanced Punishment For a
Second or Subsequent Violation of The Same offense,
The Indictment in a Seperate Court shall specify
and Charge That Fact, See Exhibit (A)

14, In Warden v. State, held That Indictment
Charging that Defendants Possessed Liquor and That
Offense Was a Second or Subsequent Violation of the
Statute and Such Constituted a Felony was Defective
For Failure to allege Fact of Conviction of Prior
Conviction, An Indictment Failing In These Requisites
Is Invalid and a Conviction Is Void, See Exhibit (B)

15, In State v. Sanders, where Indictment did not
allege that Defendant had been Previously Convicted
of driving while under the Influence, he could not
be sentenced as a Recidivist, and Notices of Enhanced
Punishment Filed by The District Attorney General
were Nullities, See Exhibit (C).

16. Petitioner Will Show That In his Indictment For
Case No. # 09-02884 Count 1 and 2 Thru # 09-02893
Count 1 and 2, That The District Attorney Failed
To Put In The Petitioner Indictments That The
Petitioner have had Two (2) Prior Convictions of the
Same offenses of Aggr. Robbery Convictions as mandated
by Statute, T.C.A. 40-35-203(e) T.C.A. 40-35-202,
See Exhibit (D)

17. Petitioner Will Show that he Does have Two (2)
Prior Convictions of Aggr. Robbery Convictions of 12yrs,
15yrs, and 30yrs but The 30yrs Was Reduced to 15yrs,
and That The District Attorney Should have Put the
Petitioner Two (2) Prior Convictions of Aggr. Robbery

Into his Indictments, But Since The District Attorney Failed to do so, The Petitioner Sentence of "Life Without Parole" Is Illegal and Void, see Exhibit (E).

18. Petitioner Will Show That when he sign for his Illegal Guilty Plea on Case no. # 09-02887 Jury #09-02893 on 1-25-10 That The Petitioner Judgment Sheets says Under offender status was "Career offender," see Exhibit (F-1), And when The Petitioner did his Writ of Habeas Corpus on The Illegal Sentence and when The Writ was Granted, and when The Petitioner refused to accept The State offer of 30yrs at 100% percent because the Law has changed In 2008 Saying Any Sentence you Received had to be at 100% Percent IF an Defendant have a prior Convictions of Aggr. Robbery, So when I Did not accept the state offer of 30yrs at 100% Percent that when The District Attorney Raised The Petitioner offender status From "Career" to "Repeat Violent offender" status and Seek Life without Parole, See Exhibit (F-2).

19, ON 4-9-09 When The Petitioner Was Indicted FOR AgSR. Robbery By The Grand Jury that he Should have been a "Repeat Violent offender and not a Career offender, But Since The District Attorney Failed to Informed The Grand Jury That the Petitioner have had Two(2) Prior Convictions of AgSR. Robbery and Since The District Attorney Did not Put my Two(2) Prior Convictions of AgSR. Robbery In my Indictments as Mandated by Statute and T.C.A. 40-35-203(e) Imposition of Sentence, That The Petitioner should have been Sentenced as a Range(1) offender and Not as a Range(3) offender Making his Sentence and Convictions Illegal and Void.

20. When The Petitioner Filed his Writ of Habeas Corpus In State Court on his Illegal and Void Sentence and Conviction ON 3-30-21, The Petitioner never mentioned That his Sentence has Expired, The Petitioner Arguments was That The District Attorney never Put Into his Indictments that he has Two(2) Prior Convictions of The Same offenses of AgSR. Robbery as mandated by Statute and T.C.A. 40-35-203(e) Imposition of

Sentence, and Since The District Attorney Have Failed To do so that The Petitioner Should have been Sentence as a Range (1) offender and not as an Range (3) offender.

21, Then The Courts Said on Page (2) of Their Order that The offenses of The Petitioner Was Convicted are Not Within the Category of offenses For which T.C.A. 40-35-203(e) Would be Applicable, The Petitioner Rebuttal Arguments Is That T.C.A. 40-35-203(e) Was giving an Example of a offense Like The Driving under The Influence, But the Statute Is Talking About any offenses that the District Attorney Have to Put Into Your Indictment IF The Defendant Have Two(2) Prior Convictions of The Same offenses.

22, Then The Court Said additionally that the appropriate Time to Challenge The Legality of an Indictment is before The beginning of Trial, The Petitioner Arguments Is that The Petitioner Can Do an Writ of Habeas Corpus OR Even a Petition on A 36.1 on Illegal Sentence Tenn. Rules of Criminal Procedure and There Is no Statute of Limitations to Correct an Illegal Sentence When the

Petitioner can Demonstrate That The Sentence and Conviction Is Void and Not merely Voidable.

23, Section 40-35-203(e) Does not Create a Separate Substantive offense but Rather Constitutes a Sentence Enhancement Provisions, Nevertheless, Defendants enjoy Certain Constitutional Protections at a hearing to Determine whether a Sentencing Enhancement Based on Prior Convictions has been Proven. Op. Atty. Gen. No. 92-36, 4-27-1992.

24, Petitioner again will Prove that he Does have Two(2) Prior Convictions of Aggr. Robbery Convictions and that The District Attorney Should have Put The Petitioner Two(2) Prior Convictions of Aggr. Robbery Into his Indictments to Seek Enhancement Factors as mandated by Statute and T.C.A. 40-35-203(e), But since The District Attorney has Failed to do so, The Petitioner Sentence of "Life Without Parole" and his offender status "Repeat Violent Offender" IS Illegal and Void,

25. And The Petitioner Will Finally Add That The Petitioner Is Using The Phrase "Nunc-Pro-Tunc" Meaning "Now For Then" To Contest The Indictments In This Petition because The State Courts Says The Appropriate Time to Challenge The Legality of an Indictment is before The Commencement of Trial, And Now The Petitioner Is Using The Phrase "Nunc-Pro-Tunc" To Challenge The Indictments Now In This Petition Under 28 U.S.C. 2254 For Writ of Habeas Corpus By A Person In State Custody because The Petitioner Did not Challenge Then His Indictments at The Beginning of Trial.

26. I Did Not File Anything, motions, etc. In The United States Supreme Court.

Relief

Wherefore, all Premises Considered, The Petitioner Prays
That The Court Grant him The Following Relief:

- A) To Grant This Petition Relief From a Conviction
or Sentence By a Person In State Custody.
- B) And Any other Relief to which Petitioner may be entitled to.

Signature's
Michael B. Bailey #221117

Certificate of Service

I Certify That a True and accurate Copy of the foregoing
was mailed In House mail, on 21 day of February, 2022,
to:

Warden Tony Mays

Rm 51

7475 Cockrill Bend Blvd
Nashville, TN, 37209

Signature's
Michael B. Bailey #221117

Petitioner Verification

I, Michael Bailey Do Swear Under Oath of Penalty of Perjury that the Forgoing Petition Is True and Correct.

Subscribed and Sworn to Before me This The
21 day of February, 2022.

Respectfully Submitted

Print → Michael B. Bailey "221117
Sign → Michael B. Bailey "221117

§ 40-35-203. Imposition of sentence
TN ST § 40-35-203 : West's Tennessee Code Annotated : Title 40. Criminal Procedure , Effective: August 11, 2010 (Approx. 2 pages)

West's Tennessee Code Annotated
Title 40. Criminal Procedure
Chapter 35. Tennessee Criminal Sentencing Reform Act of 1989 (Refs & Annos)
Part 2. Procedure for Imposing Sentence

Effective: August 11, 2010

T. C. A. § 40-35-203

§ 40-35-203. Imposition of sentence

Currentness

(a) Except as provided in subsection (c) and with respect to fines as provided in § 40-35-301, sentences in felony and misdemeanor cases shall be imposed by the court. Upon a verdict or plea of guilty, the court shall set and conduct a sentencing hearing except as provided in subsection (b). Evidence may, but need not, be presented by both the defendant and the district attorney general on any matter relevant to the issue of sentencing. The sentencing hearing may occur immediately after guilt is determined, subject to the rights of the parties to postpone the hearing under § 40-35-209(a).

(b) Where the sentence is agreed upon by the district attorney general and the defendant and accepted by the court, the court may immediately impose sentence as provided in § 40-35-205(d) and no specific sentencing hearing or presentence reports shall be required. The judge may, in the judge's discretion, direct that a complete presentence report be prepared. No defendant sentenced to the custody of the department of correction shall be committed or conveyed to the department unaccompanied by the completed presentence report or investigation and report required by § 40-35-209(d)(1). Furthermore, a presentence report or investigation and report shall be prepared on all defendants sentenced to a period of continuous confinement of one (1) year or greater in a local jail or workhouse. This requirement shall not be cause for delay in conveying the defendant to the local institution to which the defendant has been committed. There shall be a presentence report and hearing on any issue of sentencing not agreed upon by the parties and accepted by the court.

(c) If a capital offense is charged and the jury returns a verdict where death is a possibility, the jury shall fix the punishment in a separate sentencing hearing as otherwise provided by law, unless the jury is waived as to punishment.

(d) If the trial judge who presided at the trial on the merits is unavailable because of death, resignation, retirement, ill health or loss of jurisdiction, another judge appointed by the chief justice of the Tennessee supreme court may impose the sentence.

(e) If the criminal offense for which the defendant is charged carries an enhanced punishment for a second or subsequent violation of the same offense, the indictment in a separate count shall specify and charge that fact. If the defendant is convicted of the offense, then the jury must find that beyond a reasonable doubt the defendant has been previously convicted the requisite number of times for the same offense. Upon such finding, the defendant shall be subject to the authorized terms of imprisonment for the felonies and misdemeanors as set forth in § 40-35-111.

Credits

1989 Pub.Acts, c. 591, § 6; 1990 Pub.Acts, c. 980, § 24.

Editors' Notes

Exhibit A

Exhibit (a)

WESTLAW

Warden v. State

Supreme Court of Tennessee. July 15, 1964. 18 McCanless 391. 214 Tenn. 391. 381 S.W.2d 244. (Approx. 5 pages)

18 McCanless 391

Supreme Court of Tennessee.

Lynn WARDEN and Eunice Barrowman

STATE of Tennessee.

July 15, 1964.

Synopsis

The defendants were convicted of possession of intoxicating liquors for sale, as a second-offense felony. The Criminal Court, Washington County, Oris D. Hyder, J., gave judgment, and the defendants appealed in error. The Supreme Court, Felts, J., held that indictment charging that defendants possessed intoxicating liquor and that offense was a second or subsequent violation and as such constituted a felony in that defendants had been indicted for possessing intoxicating liquors was defective for failure to allege fact of prior possession.

Reversed and remanded for further proceedings not inconsistent with opinion.

West Headnotes (5)

Change View

1 Sentencing and Punishment Requisites and sufficiency of accusation

Indictment charging that defendants possessed intoxicating liquor and that offense was a second or subsequent violation of the statute and as such constituted a felony "the defendants having theretofore in this court and by this grand jury been indicted for possession of intoxicating liquors" and "upon conviction for either of said offenses, the offense herein presented is a felony" was defective for failure to allege fact of conviction of prior possession. T.C.A. §§ 39-2504, 39-2527, 39-2528, 40-1802; Const. art. 1, § 9.

6 Cases that cite this headnote

2 Indictments and Charging Instruments Matters of fact or conclusions

Indictment must state such facts and circumstances as will constitute the crime, and not merely a legal result or conclusion. T.C.A. § 40-1802.

7 Cases that cite this headnote

3 Sentencing and Punishment Requisites and sufficiency of accusation

Where a statute provides for proof of prior convictions and requires increased punishment for second or subsequent offenses, the indictment, in order to charge a second or subsequent offense, must aver not only the convictions of prior offenses, but also such circumstances of time and place as to inform the accused of what proofs of prior offenses may be offered against him and enable him to be prepared to make his defense; and an indictment failing in these requisites is invalid and a conviction based thereon is void.

Exhibit (B)

8 Cases that cite this headnote

- 4 Indictments and Charging Instruments  Evidence admissible under charging instrument

Indictments and Charging Instruments  Sufficiency of accusation

Where pleading or indictment is defective in its statement of cause of action and such defect would be fatal on demurrer or motion to quash, it will be cured on trial if issues made by pleadings required proof of the facts so defectively stated or omitted; this rule does not apply where pleading or indictment wholly fails to state a cause of action, and in such case proof of facts not averred cannot be admitted in evidence.



3 Cases that cite this headnote

- 5 Criminal Law  Requisites and Sufficiency of Judgment

A judgment entered on a void pleading is void.



1 Case that cites this headnote

Attorneys and Law Firms

*392 **244 Thomas E. Mitchell, Johnson City, for plaintiffs in error.

George F. McCanless, Atty. Gen., Edgar P. Calhoun, Asst. Atty. Gen., Nashville, for the State.

Opinion

FELTS, Justice.

Plaintiffs in error were convicted of possession of intoxicating liquors for sale, as a second-offense felony (T.C.A. §§ 39-2527, 39-2528), and their punishment fixed by the jury at three years in the penitentiary. The Trial Judge entered judgment sentencing them to not less than one year nor more than three years in the penitentiary. They appealed in error.

T.C.A. § 39-2527 makes possession of intoxicating liquors for sale a misdemeanor **245 punishable by fine of not less \$100.00 nor more than \$500.00, and imprisonment for not less than 30 days nor more than six months. T.C.A. § 39-2528 provides that a 'second or subsequent violation' of § 39-2527 shall be a felony punishable by imprisonment of not less than one year, nor more than five years, in the penitentiary.

1 The question in the case is the validity of the indictment: whether it stated facts and circumstances as to the prior offenses sufficient in law to constitute a second-offense felony under the statute, and to give plaintiffs in error the requisite notice as to the prior offenses to be proved against them. The indictment, in one count, charged them with possession of intoxicating liquors on March 30, 1963, and that

'the offense herein presented is a second or subsequent violation of Section 39-2527, Tenn. Code Ann. and as such constitutes a felony as provided by Section 39-2528, Tenn. Code Ann., the defendants having heretofore in this Court and by this Grand Jury been indicted for possession intoxicating liquors in violation of Sect. 39-2527, T.C.A., and on Jan. 19, 1963, on January 22, 1963, and on January 26, 1963, and upon conviction *394 for either of said offenses, the offense herein presented is a felony. * * *'
(italics ours).

2 This question involves a constitutional right of the accused—the right ‘to demand the *nature* and *cause* of the accusation against him, and to have a copy thereof’ (Art. 1, sec. 9, same in our prior Constitutions). This is said to be a principle ‘as old as the common law’; it is that the indictment must state ‘such facts and circumstances as will constitute the crime, and not merely a legal result’ or conclusion (italics ours). Pearce v. State, 33 Tenn. 64, 67–68 (1853); Hall v. State, 43 Tenn. 125, 128 (1866); Cornell v. State, 66 Tenn. 520, 523 (1874).

This principle has been embodied in our statute (1932 Code sec. 11624, T.C.A. § 40–1802): ‘The indictment must state the facts constituting the offense in ordinary and concise language, * * * in such a manner as to enable a person of common understanding to know what is intended, and with that degree of certainty which will enable the court, on conviction, to pronounce the proper judgment * * *.’

In Inman v. State, 195 Tenn. 303, 304–305, 259 S.W.2d 531 (opinion by Associate, now Chief, Justice Burnett), it is said the test of the sufficiency of an indictment of presentment is

“whether it contains the elements of the offense intended to be charged, ‘and sufficiently apprises the defendant of what he must be prepared to meet, and, in case any other proceedings are taken against him for a similar offense, whether the record shows with accuracy to what extent he may plead a former acquittal or conviction.’”

*395 We think the indictment here failed to meet this test—failed to state facts and circumstances sufficient in law to constitute the elements of the felony on which plaintiffs in error were tried and convicted. Such elements are (1) that they had possession of intoxicating liquor for sale; and (2) that such possession was ‘a second or subsequent violation’ of T.C.A. § 39–2527, and, therefore, a felony under § 39–2528.

So, it was unnecessary that the indictment state not only the fact of such possession, but also the fact that it was a second possession with reasonable certainty as to places and times of the prior possession or possessions so as to apprise plaintiffs in error of what they ‘must be prepared to meet,’ and to show ‘with accuracy’ to what extent they may plead the acquittal or conviction as a bar to subsequent similar proceedings against them.

As we have seen, the indictment did state that ‘the offense herein presented is a second or subsequent violation’ of § 39–2527, and a felony under § 39–2528. This, however, was not a ‘complete description of **246 such facts and circumstances as constituted the crime,’ but was a mere statement of a legal result or conclusion and, therefore, insufficient to charge any offense or inform defendants what they were called on to meet. Pearce v. State, *supra*; Cornell v. State, *supra*; Jones v. State, 84 Tenn. 466, 468, Robinson v. City of Memphis, 197 Tenn. 598, 602–603, 277 S.W.2d 341.

The pleader apparently recognized this deficiency, for he went on to state: ‘defendants having heretofore in this Court and by this Grand Jury been *indicted* for possessing intoxicating liquors * * * and upon *conviction* for either of said offenses, the offense herein presented is a felony * * *’ (italics ours). This, however, was not an *396 averment of the facts constituting a felony, but merely a hypothetical averment that defendants had been indicted and, if convicted on either of such indictments, ‘the offense herein presented is a felony.’

An averment of possession in violation of § 39–2527, plus an averment that the possessor had been indicted for prior possessions without averring a conviction under such indictments, was insufficient to charge a felony under § 39–2528. In order to do that, it was necessary for the pleader to aver not merely an indictment, but the fact of conviction of prior possession. It is expressly so provided under our statutes forbidding sales of intoxicants and making the second sale a felony. T.C.A. § 39–2504.

3 We think this case comes within the principle established by decisions of this Court and of the federal courts, to the effect that where a statute provides for proof of prior convictions and requires increased punishment for second or subsequent offenses, the indictment, in order to charge a second or subsequent offense, must aver not only the convictions of prior offenses, but also such circumstances of time and place as to inform the accused of what proofs of prior offenses may be offered against him and enable him to be prepared to make his defense; and an indictment failing in these requisites is invalid and a conviction based thereon is void.

Some of the cases so holding are *Rhea v. Edwards* (U.S.Dist.Ct., Tenn., opinion by Judge Davies, 1955 (involving our Habitual Criminal Act, now T.C.A. §§ 40-2801, 40-2804)), 136 F.Supp. 671, aff'd sub nom. *Edwards v. Rhea*, 6 Cir., 238 F.2d 850; *In re Boyd* (U.S.Dist.Ct., Tenn., opinion by Judge Miller, 1959 (involving our Habitual Criminal Act)), 189 F.Supp. 113, aff'd sub nom. *397 *Bomar v. Boyd*, 6 Cir., 281 F.2d 195; *Frost v. State* (opinion by Justice Tomlinson, involving second-offense conviction of driving while drunk (T.C.A. §§ 59-1031, 59-1035)), 203 Tenn. 549, 314 S.W.2d 33; *Frost v. State* (second appeal (opinion by Justice Tomlinson)), 205 Tenn. 671, 330 S.W.2d 303, 80 A.L.R.2d 1191.

4 5 It is true that in the case before us there was no motion to quash the indictment, as there was in the *Frost* case, *supra*. It is also true that where a pleading or an indictment is defective in its statement of the cause of action and such defect would be fatal on demurrer or motion to quash, yet it will be cured on the trial if the issues made by the pleadings required proof of the facts so defectively stated or omitted. *Magevney v. Karsch*, 167 Tenn. 32, 48, 65 S.W.2d 562, 92 A.L.R. 343.

But this rule does not apply where the pleading or indictment wholly fails to state a cause of action. In such case, proof of facts not averred cannot be admitted in evidence. As said by Judge Tomlinson in *Robinson v. City of Memphis*, *supra*, it is necessary to distinguish between a pleading that is void and one that is merely defective or voidable only (197 Tenn. 602-603, 277 S.W.2d 343-344). In the former case, a judgment entered on such pleading is void.

It seems clear that if a judgment should be entered upon the indictment before us and if plaintiffs in error were imprisoned thereunder, such judgment and imprisonment **247 would be held void and illegal upon habeas corpus under *Rhea v. Edwards*, *supra* and *In re Boyd*, *supra*.

For these reasons, the judgment below is reversed and the case is remanded for further proceedings not inconsistent with this opinion.

All Citations

18 McCanless 391, 214 Tenn. 391, 381 S.W.2d 244

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WESTLAW

State v. Sanders

Court of Criminal Appeals of Tennessee, at Jackson. | May 20, 1987 | 735 S.W.2d 856 (Approx. 4 pages)

735 S.W.2d 856

Court of Criminal Appeals of Tennessee,
at Jackson.

STATE of Tennessee, Appellee,

v.

Virgil Wayne SANDERS, Appellant.

No. 5

May 20, 1987.

Synopsis

Defendant was convicted of driving under the influence and driving while license was revoked, following jury trial in Hardeman County, Jon Kerry Blackwood, J., and he appealed. The Court of Criminal Appeals, Jones, J., held that: (1) defendant could not be sentenced as recidivist where indictment did not allege that defendant had previously been convicted of driving while under the influence of alcohol, despite notices of enhanced punishment filed by the district attorney general, and (2) it was for jury rather than trial court to determine whether defendant was a second or subsequent offender and, if so, to establish the maximum fine.

Affirmed in part and sentence set aside and cause remanded in part.

West Headnotes (4)[Change View](#)**1 Automobiles  Repeat Offenders**

An accused who has been convicted of driving while under the influence may not be sentenced as a recidivist unless his prior conviction or convictions for driving while under the influence are alleged in the indictment or charging instrument; word "must" in statute requiring such an allegation in the indictment or charging instrument is mandatory. T.C.A. § 55-10-403(g).

6 Cases that cite this headnote

2 Automobiles  Repeat Offenders

Where indictment did not allege that defendant had been previously convicted of driving while under the influence, he could not be sentenced as a recidivist, and notices of enhanced punishment filed by the district attorney general were nullities. T.C.A. §§ 40-35-101 et seq., 40-35-202, 55-10-403, 55-10-403(g).

4 Cases that cite this headnote

3 Automobiles  Driving While Intoxicated

In prosecution for driving while under the influence, it was for jury, not the trial judge, to determine whether defendant had been previously convicted of two offenses of driving under

Exhibit (C)



the influence, and to establish the maximum fine if defendant was found to be a second or subsequent offender.

8 Cases that cite this headnote

4 Fines  **Imposition and Liability in General**

Under State Constitution, trial court could not impose fine in excess of \$50 absent waiver by defendant of the constitutional provision. Const. Art. 6, § 14.

7 Cases that cite this headnote

Attorneys and Law Firms

*856 Mike Mosier, Henderson, for appellant.

W.J. Michael Cody, Atty. Gen. and Reporter, James W. Thompson, Asst. Atty. Gen., Nashville, Paul G. Summers, Dist. *857 Atty. Gen., Steve Weitzman, Asst. Dist. Atty. Gen., Sommerville, for appellee.

OPINION

JONES, Judge.

The defendant, Virgil Wayne Sanders, was convicted of driving while under the influence and driving while license revoked by a jury of his peers. The defendant was sentenced to pay a fine of \$10.00 and serve two (2) days in the Hardeman County Jail for the offense of driving while license revoked. The trial judge, apparently finding this was the defendant's third offense for driving while under the influence sentenced the defendant to pay a fine of \$1,000.00 and serve a term of eleven (11) months and twenty-nine (29) days in the Hardeman County Jail. The trial judge suspended all but 120 days of the sentence; and ordered that the two (2) sentences would be served concurrently.

After the trial court denied the defendant's motion for a new trial he appealed as of right to this Court pursuant to Rule 3(b), Tenn.R.App.P. In this Court the defendant raises but a single issue. He contends that he should have been sentenced as a first offender, not as a third offender, for the offense of driving while under the influence. The State of Tennessee, confessing error in its brief, agrees that the defendant should have been sentenced as a first offender under the facts and circumstances of this case.

On the 6th day of January, 1986, the appellant was indicted by the Hardeman County Grand Jury for the offenses of driving while under the influence and driving a motor vehicle after his license had been canceled, suspended or revoked. The indictment did not allege or mention the appellant had been previously convicted of driving while under the influence.

On January 17, 1986, the District Attorney General filed a "Notice of Enhanced Punishment." This pleading alleged the appellant had previously been convicted of driving while under the influence of August 3, 1984, in the General Sessions Court of Hardeman County, and the State would seek to enhance his punishment for the offense of driving while under the influence, if convicted. On February 10, 1986, the District Attorney General filed an "Amended Notice of Enhanced Punishment." This pleading alleged that the defendant had been convicted of driving while under the influence on June 16, 1978, and February 16, 1979, in the General Sessions Court of Hardeman County in addition to the conviction of August 3, 1984. The State again stated in the notice that it would seek to enhance the defendant's punishment, if he was convicted of the offense.

The trial court entered a judgment on the verdicts of the jury finding the defendant guilty of both offenses. The judgment does not mention a fine or that the defendant was found to be a third offender. Nor does the applicable portion of the transcript of the proceedings. Apparently the trial judge, not the jury, found the defendant had committed two (2) prior offenses of driving while under the influence. However, neither the judgment on sentence nor the transcript of the sentencing hearing contains a finding to this effect. The trial judge must also have thought that he had the power and authority to assess a fine in excess of \$50.00 without the approval of a jury.

1 An accused, who has been convicted of driving while under the influence, may not be sentenced as
a recidivist unless his prior conviction or convictions for driving while under the influences are alleged
in the indictment or charging instrument. T.C.A. § 55-10-403(g) provides:

"In the prosecution of second or subsequent offenders the indictment or charging instrument must allege the prior conviction or convictions for violating any of the provisions § 55-10-401—§ 55-10-404, setting forth the time and place of each prior conviction or convictions." (Emphasis added)

The word "must", as used in the statute, means "1: an imperative need or duty: REQUIREMENT 2: An indispensable item: ESSENTIAL." Webster's *New Collegiate Dictionary* (1981) at 753. In this jurisdiction the word "must", like the word "shall", "is ordinarily construed as being mandatory and not discretionary" when used in constitutions or statutes. **858 Stubbs v. State*, 216 Tenn. 567, 393 S.W.2d 150, 154 (1965); *Blankenship v. State*, 223 Tenn. 158, 443 S.W.2d 442, 445 (1969).

2 The notices filed by the District Attorney General after the return of the indictment were nullities. This Court has consistently held that sentencing in driving while under the influence cases are controlled by T.C.A. § 55-10-403, not the Tennessee Criminal Sentencing Reform Act of 1982. See *State v. Lowe*, 661 S.W.2d 701, 703-704 (Tenn.Crim.App.1983); *State v. Gurley*, 691 S.W.2d 562, 563, 564 (Tenn.Crim.App.1984). The Attorney General for the State of Tennessee has reached this same conclusion. Op.Tenn.Atty.Gen. 196 (1982). Thus, the trial judge's reliance upon T.C.A. § 40-35-202, as a substitute for the mandate of T.C.A. § 55-10-403(g), was clearly erroneous.

Since the indictment did not allege the defendant had been previously convicted of driving while under the influence, the defendant could not be sentenced as a recidivist. He should have been sentenced as if this were his first conviction.

3 We note the trial judge, not the jury, determined that the defendant had previously been convicted of two offenses of driving while under the influence; and the trial judge assessed a fine of \$1,000.00 without first submitting the issue of the amount of the fine to the jury. This too was error.

When the indictment alleges the accused is a second or subsequent offender, a bifurcated proceeding is mandated. The first phase of the proceeding addresses the issue of the guilt or innocence of the defendant. In addition, the jury must determine the maximum amount of fine the trial judge may assess if the defendant is punishable as a first offender. If the jury returns a verdict of guilty, the jury, not the trial judge, must determine whether the defendant is a second or subsequent offender beyond a reasonable doubt. In addition, the jury must establish the maximum fine the trial court may assess if the accused is found to be a second or subsequent offender. See *State v. Raleigh C. Wiser*, C.C.A. at Nashville, opinion filed February 19, 1987, order granting petition to rehear filed April 7, 1987.

4 A trial judge may not sentence a defendant to pay a fine in excess of \$50.00, see Tenn. Const. Art. VI, § 14, unless the defendant waives this constitutional provision, *State v. Durso*, 645 S.W.2d 753 (Tenn. 1983), or the parties waive a trial by jury. *State v. Harless*, 607 S.W.2d 492 (Tenn. Crim. App. 1980). Absent one of these exceptions a trial judge must follow the procedure mandated

by T.C.A. § 40-35-301(b). Since neither of these exceptions appears in the record presented to us for review, we are of the opinion the trial judge exceeded his jurisdiction in fining the defendant the sum of \$1,000.00.

The record submitted to this Court for review does not contain the transcript of the trial evidence. Nor does the record contain a pre-sentence report. This was waived by the parties. Furthermore, no evidence was introduced at the sentencing hearing. Thus, we are of the opinion the interests of justice will best be served by remanding this cause to the trial court for a new sentencing hearing. When sentencing the defendant, the trial judge shall impose a sentence within the range of punishment prescribed for a person who has been convicted of his first offense of driving while under the influence. The trial judge may not, however, assess a fine in excess of \$50.00 for the reasons hereinabove enumerated.

The defendant's conviction for driving while license revoked and the trial judge's sentence for this offense are affirmed.

The defendant's conviction for driving while under the influence is affirmed. However, the sentence imposed by the trial judge is set aside; and this cause is remanded to the trial court for the purpose of conducting a sentencing hearing and resentencing the defendant in a manner not inconsistent with this opinion.

DUNCAN and DAUGHTREY, JJ., concur.

All Citations

735 S.W.2d 856

End of Document

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STATE OF TENNESSEE) CRIMINAL COURT OF SHELBY COUNTY

)

SHELBY COUNTY) MARCH TERM, 2009

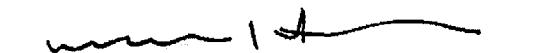
Exhibit (D)

Count 1

THE GRAND JURORS of the State of Tennessee, duly selected, empaneled, sworn and charged to inquire for the body of the county of Shelby, Tennessee, upon their oath, present that:

MICHAEL BAILEY

between November 5, 2008 and November 10, 2008 in Shelby County, Tennessee, and before the finding of this indictment, did unlawfully, intentionally or knowingly, take from the person of RENEE LASATER certain property, to wit: a purse and contents and keys, of value, by violence or by putting RENEE LASATER in fear, said taking accomplished with a deadly weapon or by display of an article used or fashioned to lead RENEE LASATER to reasonably believe the article to be a deadly weapon, in violation of T.C.A. 39-13-402, against the peace and dignity of the State of Tennessee.



William L. Gibbons
District Attorney General
30th Judicial District

No. 09 02887

STATE OF TENNESSEE

v.

MICHAEL BAILEY

Indictment for

AGGRAVATED ROBBERY
AGGRAVATED ASSAULT

T.C.A. 39-13-402
T.C.A. 39-13-102

SCATS CODE - 21025
SCATS CODE - 30043

Witnesses:

Summon for the State

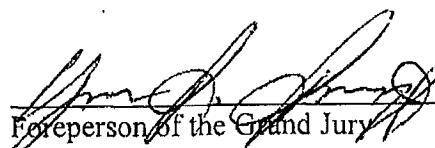
D. HOPKINS, MPD, ROBBERY BUREAU
M.FAIR
F.WINSTON
R.SABA
S.FOGLESONG
T.GATES
M.BOSWELL
RENEE LASATER
TOD SALIN

MPD - ROBBERY BUREAU
MPD
MPD
MPD
MPD
MPD
MPD

Exhibit C (D)

M. FAIR
Prosecutor

A True Bill

 PRO-TEM
Foreperson of the Grand Jury

Date Indictment Returned:

4/30/90

STATE OF TENNESSEE) CRIMINAL COURT OF SHELBY COUNTY
)
SHELBY COUNTY) MARCH TERM, 2009

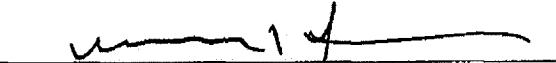
Exhibit (D)

Count 2

THE GRAND JURORS of the State of Tennessee, duly selected, empaneled, sworn and charged to inquire for the body of the county of Shelby, Tennessee, upon their oath, present that:

MICHAEL BAILEY

between November 5, 2008 and November 10, 2008 in Shelby County, Tennessee, and before the finding of this indictment, did unlawfully and knowingly commit an assault on TOD SALIN and use or display a deadly weapon and cause the said TOD SALIN to reasonably fear imminent bodily injury, in violation of T.C.A. 39-13-102, against the peace and dignity of the State of Tennessee.


William L. Gibbons
District Attorney General
30th Judicial District

No. 09 02888

STATE OF TENNESSEE

v.

MICHAEL BAILEY

Indictment for

AGGRAVATED ROBBERY

T.C.A. 39-13-402

SCATS CODE - 21025

Witnesses:

D. HOPKINS, MPD, ROBBERY BUREAU

Summon for the State

M.FAIR
F.WINSTON
T.GATES
M.BOSWELL
D.DESVERGNES
LASHANDA JONES

MPD - ROBBERY BUREAU
MPD
MPD
MPD
MPD
MPD

Exhibit (D)

M. FAIR
Prosecutor

A True Bill

PRO-TEM

Foreperson of the Grand Jury

Date Indictment Returned: 4/30/09

STATE OF TENNESSEE) CRIMINAL COURT OF SHELBY COUNTY
)
SHELBY COUNTY) MARCH TERM, 2009

Count 1

THE GRAND JURORS of the State of Tennessee, duly selected, empaneled, sworn and charged to inquire for the body of the county of Shelby, Tennessee, upon their oath, present that:

MICHAEL BAILEY

Exhibit (D)

on October 14, 2008 in Shelby County, Tennessee, and before the finding of this indictment, did unlawfully, intentionally or knowingly, take from the person of LASHANDA JONES certain property, to wit: a motor vehicle, a purse and contents and keys, of the value of \$1,000 or more, by violence or by putting LASHANDA JONES in fear, said taking accomplished with a deadly weapon or by display of an article used or fashioned to lead LASHANDA JONES to reasonably believe the article to be a deadly weapon, in violation of T.C.A. 39-13-402, against the peace and dignity of the State of Tennessee.

num 14
William L. Gibbons
District Attorney General
30th Judicial District

No. 93 02889

STATE OF TENNESSEE

v.

MICHAEL BAILEY

Indictment for

AGGRAVATED ROBBERY

T.C.A. 39-13-402

SCATS CODE - 21025

Witnesses:

Summon for the State

D. HOPKINS, MPD, ROBBERY BUREAU

M.FAIR
F.WINSTON
T.GATES
M.BOSWELL
J.OLIVER
LATARSHA OWENS

MPD - ROBBERY BUREAU
MPD
MPD
MPD
MPD

Exhibit (D)

M. FAIR
Prosecutor

A True Bill

 PRO-TEM
Foreperson of the Grand Jury

Date Indictment Returned: 4/30/09

STATE OF TENNESSEE) CRIMINAL COURT OF SHELBY COUNTY
)
SHELBY COUNTY) MARCH TERM, 2009

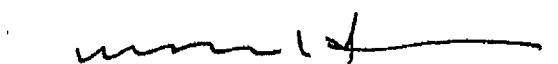
Count 1

THE GRAND JURORS of the State of Tennessee, duly selected, empaneled, sworn and charged to inquire for the body of the county of Shelby, Tennessee, upon their oath, present that:

MICHAEL BAILEY

Exhibit (1)

on October 15, 2008 in Shelby County, Tennessee, and before the finding of this indictment, did unlawfully, intentionally or knowingly, take from the person of LATARSHA OWENS certain property, to wit: a purse and contents, of value, by violence or by putting LATARSHA OWENS in fear, said taking accomplished with a deadly weapon or by display of an article used or fashioned to lead LATARSHA OWENS to reasonably believe the article to be a deadly weapon, in violation of T.C.A. 39-13-402, against the peace and dignity of the State of Tennessee.



William L. Gibbons
District Attorney General
30th Judicial District

No. 09 02890

STATE OF TENNESSEE

V:

MICHAEL BAILEY

Indictment for

AGGRAVATED ROBBERY

T.C.A. 39-13-402

SCATS CODE - 21025

Witnesses:

D. HOPKINS, MPD, ROBBERY BUREAU

Summon for the State

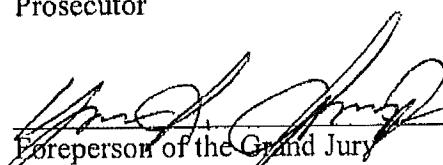
M.FAIR
F.WINSTON
T.GATES
M.BOSWELL
D.GUNTER
CAROLYN GREENE

MPD - ROBBERY BUREAU
MPD
MPD
MPD
MPD
MPD

Exhibit (D)

M. FAIR
Prosecutor

A True Bill


PRO-TEM
Foreperson of the Grand Jury

Date Indictment Returned:

4/30/09

Count 1

THE GRAND JURORS of the State of Tennessee, duly selected, empaneled, sworn and charged to inquire for the body of the county of Shelby, Tennessee, upon their oath, present that:

MICHAEL BAILEY

Exhibit (D)

on October 17, 2008 in Shelby County, Tennessee, and before the finding of this indictment, did unlawfully, intentionally or knowingly, take from the person of CAROLYN GREENE certain property, to wit: a purse and contents, of value, by violence or by putting CAROLYN GREENE in fear, said taking accomplished with a deadly weapon or by display of an article used or fashioned to lead CAROLYN GREENE to reasonably believe the article to be a deadly weapon, in violation of T.C.A. 39-13-402, against the peace and dignity of the State of Tennessee.

William L. Gibbons
District Attorney General
30th Judicial District

09 02891
No. _____

STATE OF TENNESSEE

V.

MICHAEL BAILEY

Indictment for

AGGRAVATED ROBBERY

T.C.A. 39-13-402

SCATS CODE - 21025

Witnesses:

D. HOPKINS, MPD, ROBBERY BUREAU

Summon for the State

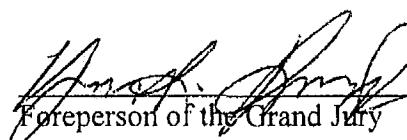
M.FAIR
F.WINSTON
T.GATES
M.BOSWELL
A.UNDERWOOD
TAUNDRIA NEWSON

MPD - ROBBERY BUREAU
MPD
MPD
MPD
MPD
MPD

Exhibit (1)

M. FAIR
Prosecutor

A True Bill

 PRO-TEM
Foreperson of the Grand Jury

Date Indictment Returned:

4/30/09

STATE OF TENNESSEE) CRIMINAL COURT OF SHELBY COUNTY
)
SHELBY COUNTY) MARCH TERM, 2009

Count 1

THE GRAND JURORS of the State of Tennessee, duly selected, empaneled, sworn and charged to inquire for the body of the county of Shelby, Tennessee, upon their oath, present that:

MICHAEL BAILEY

Exhibit (D)

on October 20, 2008 in Shelby County, Tennessee, and before the finding of this indictment, did unlawfully, intentionally or knowingly, take from the person of TAUNDRIA NEWSON certain property, to wit: a purse and contents and a baby bag, of value, by violence or by putting TAUNDRIA NEWSON in fear, said taking accomplished with a deadly weapon or by display of an article used or fashioned to lead TAUNDRIA NEWSON to reasonably believe the article to be a deadly weapon, in violation of T.C.A. 39-13-402, against the peace and dignity of the State of Tennessee.


William L. Gibbons
District Attorney General
30th Judicial District

No. 09 02892

STATE OF TENNESSEE

v.

MICHAEL BAILEY

Indictment for

AGGRAVATED ROBBERY

T.C.A. 39-13-402

SCATS CODE - 21025

Witnesses:

Summon for the State

D. HOPKINS, MPD, ROBBERY BUREAU

M.FAIR
F.WINSTON
T.GATES
M.BOSWELL
R.THOMPSON
SHERIKA TAYLOR

MPD - ROBBERY-BUREAU
MPD
MPD
MPD
MPD

Exhibit(D)

M. FAIR
Prosecutor

A True Bill


Foreperson of the Grand Jury

Date Indictment Returned: 4/30/09

STATE OF TENNESSEE) CRIMINAL COURT OF SHELBY COUNTY
)
SHELBY COUNTY) MARCH TERM, 2009

Count 1

THE GRAND JURORS of the State of Tennessee, duly selected, empaneled, sworn and charged to inquire for the body of the county of Shelby, Tennessee, upon their oath, present that:

MICHAEL BAILEY

Exhibit C(D)

on October 20, 2008 in Shelby County, Tennessee, and before the finding of this indictment, did unlawfully, intentionally or knowingly, take from the person of SHERIKA TAYLOR certain property, to wit: a purse and contents, of value, by violence or by putting SHERIKA TAYLOR in fear, said taking accomplished with a deadly weapon or by display of an article used or fashioned to lead SHERIKA TAYLOR to reasonably believe the article to be a deadly weapon, in violation of T.C.A. 39-13-402, against the peace and dignity of the State of Tennessee.

William L. Gibbons
William L. Gibbons
District Attorney General
30th Judicial District

No. 09 02893

STATE OF TENNESSEE

V.

MICHAEL BAILEY

Indictment for

AGGRAVATED ROBBERY
AGGRAVATED ROBBERY

T.C.A. 39-13-402
T.C.A. 39-13-402

SCATS CODE - 21025
SCATS CODE - 21025

Witnesses:

Summon for the State

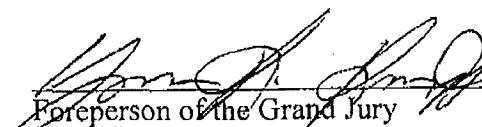
D. HOPKINS, MPD, ROBBERY BUREAU
M.FAIR
F.WINSTON
T.GATES
M.BOSWELL
C.RINEHART
C.MALONE
CYNTHIA POWERS
BRYAN POWERS

MPD - ROBBERY BUREAU
MPD
MPD
MPD
MPD
MPD
MPD

Exhibit C(D)

M. FAIR
Prosecutor

A True Bill


Foreperson of the Grand Jury PRO-TEM

Date Indictment Returned: 4/30/09

STATE OF TENNESSEE) CRIMINAL COURT OF SHELBY COUNTY
)
SHELBY COUNTY) MARCH TERM, 2009

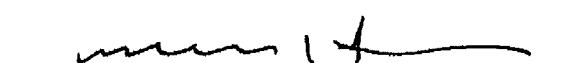
Count 1

THE GRAND JURORS of the State of Tennessee, duly selected, empaneled, sworn and charged to inquire for the body of the county of Shelby, Tennessee, upon their oath, present that:

MICHAEL BAILEY

Exhibit C

on November 20, 2008 in Shelby County, Tennessee, and before the finding of this indictment, did unlawfully, intentionally or knowingly, take from the person of CYNTHIA POWERS certain property, to wit: a purse and contents and rings, over the value of \$500, by violence or by putting CYNTHIA POWERS in fear, said taking accomplished with a deadly weapon or by display of an article used or fashioned to lead CYNTHIA POWERS to reasonably believe the article to be a deadly weapon, in violation of T.C.A. 39-13-402, against the peace and dignity of the State of Tennessee.


William L. Gibbons
District Attorney General
30th Judicial District

STATE OF TENNESSEE) CRIMINAL COURT OF SHELBY COUNTY
)
SHELBY COUNTY) MARCH TERM, 2009

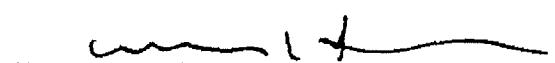
Count 2

THE GRAND JURORS of the State of Tennessee, duly selected, empaneled, sworn and charged to inquire for the body of the county of Shelby, Tennessee, upon their oath, present that:

MICHAEL BAILEY

Exhibit (D)

on November 20, 2008 in Shelby County, Tennessee, and before the finding of this indictment, did unlawfully, intentionally or knowingly, take from the person of BRYAN POWERS certain property, to wit: a wallet and contents and rings, over the value of \$500, by violence or by putting BRYAN POWERS in fear, said taking accomplished with a deadly weapon or by display of an article used or fashioned to lead BRYAN POWERS to reasonably believe the article to be a deadly weapon, in violation of T.C.A. 39-13-402, against the peace and dignity of the State of Tennessee.


William L. Gibbons
District Attorney General
30th Judicial District

THE CRIMINAL COURT OF TENNESSEE
 THIRTIETH JUDICIAL DISTRICT
 AT MEMPHIS, TENNESSEE
 DIVISION X

STATE OF TENNESSEE § 2014 MAY -5 PM 4:01
 § KEVIN NO. 09 02888
 MICHAEL BAILEY § BY *Ch*

Amended NOTICE OF IMPEACHMENT CONVICTIONS
 PURSUANT TO RULE 609(a)
 AND
 NOTICE OF INTENT TO SEEK ENHANCED PUNISHMENT
 PURSUANT TO TENNESSEE CODE ANNOTATED, SECTION 40-35-202

Comes now the State of Tennessee and hereby gives notice pursuant to Rule 609(a)(3) of the Tennessee Rules of Evidence, of certain prior convictions the State intends to offer for impeachment purposes should the defendant choose to testify in his own behalf and hereby gives notice that the defendant may be sentenced as a Multiple Offender pursuant to Tennessee Code Annotated, Section 40-35-106, a Persistent Offender pursuant to Tennessee Code Annotated, Section 40-35-107, or a Career Offender pursuant to Tennessee Code Annotated, Section 40-35-108, as applicable.

Date	Nature of Conviction, Class	Court/ Docket #
7/22/2005	Aggravated Robbery, 30 yrs	CC5 / 03-00824
7/22/2005	Aggravated Robbery, 30 yrs	CC5 / 03-00824
7/22/2005	Aggravated Robbery, 30 yrs	CC5 / 03-00824
7/22/2005	Aggravated Robbery, 30 yrs	CC5 / 03-00824
9/21/2007	Aggravated Robbery, 15 yrs	CC5 / 03-00824
2/23/2006	Aggravated Robbery, 12 yrs	CC5 / 03-00825
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10812
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10813
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10814
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10815
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10816
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10817
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10818
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10819
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10820
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10821
12/8/1997	Theft of Property, 6 yrs	CC9 / 97-10822
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10823
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10824
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10825
06/20/95	Theft of Property, 2 yrs	CC 6 / 95-05713
05/24/93	Theft of Property, 1 yr	CC5 / 93-01463
11/6/91	Theft (M)	GS9 / 91304162
12/10/90	Theft (M)	GS9 / 90326073
09/28/90	Theft (M)	GS7 / 90004065

Respectfully Submitted,

Stacy McEndree, Assistant District Attorney General

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing response was sent / caused to be delivered to T. Eskridge, counsel for defendant, on this 5th day of May, 2014.

21

IN THE CRIMINAL COURT OF TENNESSEE
THIRTIETH JUDICIAL DISTRICT AT MEMPHIS
DIVISION X

FILED

STATE OF TENNESSEE § 2013 AUG -9 PM 1:52
VS § NO. 09-02888
MICHAEL BAILEY § KEVIN F. REED, CLERK
AA

**NOTICE OF INTENT TO SEEK ENHANCED PUNISHMENT
NOTICE OF REPEAT VIOLENT OFFENDER STATUS**

Comes now the State of Tennessee, by and through the undersigned Assistant District Attorney General, and submits that, pursuant to T.C.A. § 40-35-120:

A. The defendant is a:

- () Standard Offender (Range I)
() Multiple Offender (Range II)
() Persistent Offender (Range III)
(X) Repeat Violent Offender
() Habitual Drug Offender

Exhibit (B)
Exhibit (C)

Based on the following felony conviction s:

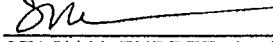
<u>Date of Conviction</u>	<u>Nature of Conviction</u>	<u>Court</u>
7/22/2005	Aggravated Robbery, 30 yrs	CC5 / 03-00824
7/22/2005	Aggravated Robbery, 30 yrs	CC5 / 03-00824
7/22/2005	Aggravated Robbery, 30 yrs	CC5 / 03-00824
7/22/2005	Aggravated Robbery, 30 yrs	CC5 / 03-00824
9/21/2007	Aggravated Robbery, 15 yrs	CC5 / 03-00824
2/23/2006	Aggravated Robbery, 12 yrs	CC5 / 03-00825
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10812
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10813
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10814
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10815
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10816
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10817
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10812
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10819
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10820
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10821
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10823
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10824
12/8/1997	Aggravated Robbery, 12 yrs	CC9 / 97-10825

Respectfully submitted,


STACY McENDREE, Assistant District Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this Notice to Seek Enhanced Punishment/Notice of Enhancing Factors on TAYLOR ESKRIDGE, Attorney for Defendant, on this 9th day of August, 2013.


STACY McENDREE, Assistant District Attorney General

Exhibit(F-1)

IN THE CRIMINAL/CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE

Case Number: 09-02887 Count # 2 Attorney for the State: A. Spirettz
 Judicial District: 30th Judicial Division: 10 Counsel for Defendant: Ruby White
State of Tennessee
 vs. **Defendant:** Michael Bailey Alias: _____
 Date of Birth: 6-20-69 Sex: M Race: B SSN: 408-35-9529
 Indictment Filing Date: 4-30-09 TDOC # _____ State Control # _____
 State ID # _____ County Offender ID # 103531

Retained Appointed Public Defender
 Counsel Waived Pro Se

JUDGMENT

Original Amended Corrected

Comes the District Attorney General for the State and the defendant with counsel of record for entry of judgment.

On the 25 day of Jan, 2010, the defendant:

<input checked="" type="checkbox"/> Pled Guilty <input type="checkbox"/> Dismissed/Nolle Prosequi <input type="checkbox"/> Nolo Contendere <input type="checkbox"/> Retired/Unapprehended Defendant <input type="checkbox"/> Guilty Plea - Pursuant to 40-35-313	Indictment: Class (circle one) <u>1st A C D E</u> <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Offense: <u>Agg. Racerdy Assault</u> Amended Charge: Offense Date: <u>11-5-2008</u> County: <u>Shelby</u> Conviction Offense: <u>Agg. Racerdy Assault</u> Is this conviction offense methamphetamine related? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No TCA #: <u>39-13-102</u> Sentence Imposed Date: <u>1-25-10</u> Conviction: Class (circle one) <u>1st A B C D E</u> <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
Is found: <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Jury Verdict <input type="checkbox"/> Not Guilty by Reason of Insanity <input type="checkbox"/> Bench Trial	

After considering the evidence, the entire record, & all factors in T.C.A. Title 40 Chapter 35, all of which are incorporated by reference herein, the Court's findings & rulings are:

Sentence Reform Act of 1989		Release Eligibility (Check One)	Concurrent with: <u>ct 1 09-0287, 88, 89, 90 91, 92, 93</u>	Pretrial Jail Credit Period(s): From <u>12-8-08</u> to <u>1-25-10</u>
Offender Status (Check One)			Consecutive to:	From _____ to _____ From _____ to _____ From _____ to _____
<input type="checkbox"/> Mitigated <input type="checkbox"/> Standard <input type="checkbox"/> Multiple <input checked="" type="checkbox"/> Persistent <input checked="" type="checkbox"/> Career <input type="checkbox"/> Repeat Violent	<input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Mitigated 30% <input type="checkbox"/> Standard 30% <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Persistent 45% <input checked="" type="checkbox"/> Career 60% <input type="checkbox"/> violent 100%	<input type="checkbox"/> Multiple Rapist 100% <input type="checkbox"/> Child Rapist 100% <input type="checkbox"/> Repeat Violent 100% <input type="checkbox"/> Child Predator 100% <input type="checkbox"/> 1 st Degree Murder <input type="checkbox"/> Drug Free Zone <input type="checkbox"/> Gang Related		
Sentenced To: <u>15</u> <input type="checkbox"/> TDOC <input type="checkbox"/> County Jail <input type="checkbox"/> Workhouse		Sentence Length: <u>15</u> Years <u>0</u> Months <u>0</u> Days <u>0</u> Hours <u>0</u> Weekends <input type="checkbox"/> Life <input type="checkbox"/> Life w/out Parole <input type="checkbox"/> Death		
Mandatory Minimum Sentence Length: <u>39-17-417, 39-13-513, 39-13-514 in Drug Free Zone or or 39-17-1324 Possession/Employment of Firearm</u>		Period of incarceration to be served prior to release on probation: <u>0</u> Months <u>0</u> Days <u>0</u> Hours <u>0</u> Weekends		
Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: <u>0</u> % (Misdemeanor Only)		Alternative Sentence: <input type="checkbox"/> Probation <input type="checkbox"/> Diversion <input type="checkbox"/> Drug Court <input type="checkbox"/> Community Based Alternative - Specify _____ Years _____ Months _____ Days _____ Effective: _____		
Court Ordered Fees and Fines:		Cost to be Paid by <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> State	Restitution: Victim Name _____ Address _____ Total Amount \$ _____ Per Month \$ _____ <input type="checkbox"/> Unpaid Community Service: _____ Hours _____ Days _____ Weeks _____ Months	
<p><input checked="" type="checkbox"/> The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.</p> <p><input type="checkbox"/> Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.</p> <p><input type="checkbox"/> Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.</p>				
Special Conditions				
<p><u>Jail Fees Waived</u></p> <p>James C. Beasley, Jr. _____ Judge's Name <u>James C. Beasley</u> _____ Judge's Signature <u>James C. Beasley</u> _____ Defendant/Defendant's Attorney/Signature</p> <p>1-25-10 Date of Entry of Judgment</p> <p>CC7-11</p> <p>CR-3419 (Rev. 1/08) RDA 1167</p>				

Attorney for State/Signature (optional)

Exhibit (F-1)

IN THE CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE

Case Number: 09-02888 Count # 1 Attorney for the State: A. Spine H.
 Judicial District: 30th Judicial Division: 10 Counsel for Defendant: Ruby White
 State of Tennessee
 vs. Michael Bailey Alias: _____
 Defendant: Michael Bailey Retained Appointed Public Defender
 vs. Michael Bailey Counsel Waived Pro Se
 Date of Birth: 6-20-69 Sex: M Race: B SSN: 408-35-9529
 Indictment Filing Date: 4-30-09 TDOC # _____ State Control # _____
 State ID # _____ County Offender ID # 103531

JUDGMENT

Original Amended Corrected

Comes the District Attorney General for the State and the defendant with counsel of record for entry of judgment.
 On the 25 day of Jan, 2009, the defendant:

<input checked="" type="checkbox"/> Plea Guilty <input type="checkbox"/> Dismissed/Nolle Prosequi <input type="checkbox"/> Nolo Contendere <input type="checkbox"/> Retired/Unapprehended Defendant <input type="checkbox"/> Guilty Plea - Pursuant to 40-35-313	Indictment: Class (circle one) <u>1st A (B) C D E</u> <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Offense: <u>Agg. Robbery</u>
Is found: <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Jury Verdict <input type="checkbox"/> Not Guilty by Reason of Insanity <input type="checkbox"/> Bench Trial	Amended Charge: _____ Offense Date: <u>10-14-2008</u> County: <u>Shelby</u> Conviction Offense: <u>Agg. Robbery</u> Is this conviction offense methamphetamine related? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No TCA #: <u>39-13-402</u> Sentence Imposed Date: <u>1-25-10</u> Conviction: Class (circle one) <u>1st A (B) C D E</u> <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor

After considering the evidence, the entire record, & all factors in T.C.A. Title 40 Chapter 35, all of which are incorporated by reference herein, the Court's findings & rulings are:

Sentence Reform Act of 1989 Offender Status (Check One) <input type="checkbox"/> Mitigated <input type="checkbox"/> Standard <input type="checkbox"/> Multiple <input checked="" type="checkbox"/> Persistent <input type="checkbox"/> Career <input type="checkbox"/> Repeat Violent		Release Eligibility (Check One) <input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Mitigated 30% <input type="checkbox"/> Standard 30% <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Persistent 45% <input checked="" type="checkbox"/> Career 60% <input type="checkbox"/> Violent 100% <input type="checkbox"/> Child Rapist 100% <input type="checkbox"/> Repeat Violent 100% <input type="checkbox"/> Child Predator 100% <input type="checkbox"/> 1 st Degree Murder <input type="checkbox"/> Drug Free Zone <input type="checkbox"/> Gang Related	Concurrent with: <u>09-0287, 89, 90, 91</u> <u>92, 93</u> Consecutive to: _____	Pretrial Jail Credit Period(s): <u>7-13-09</u> From <u>7-13-09</u> to <u>1-25-10</u> From _____ to _____ From _____ to _____ From _____ to _____
Sentenced To: <input type="checkbox"/> TDOC <input type="checkbox"/> County Jail <input type="checkbox"/> Workhouse		Sentence Length: <u>30</u> Years _____ Months _____ Days _____ Hours _____ Weekends _____	<input type="checkbox"/> Life <input type="checkbox"/> Life w/out Parole <input type="checkbox"/> Death	Mandatory Minimum Sentence Length: <u>39-17-417, 39-13-513, 39-13-514</u> in Drug Free Zone or <u>55-10-401</u> DUI 4 th Offense or <u>39-17-1324</u> Possession/Employment of Firearm
Period of incarceration to be served prior to release on probation: _____ Months _____ Days _____ Hours _____ Weekends _____		Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: _____ % (Misdemeanor Only)	Period of incarceration to be served prior to release on probation: _____ Months _____ Days _____ Hours _____ Weekends _____	
Alternative Sentence: <input type="checkbox"/> Probation <input type="checkbox"/> Diversion <input type="checkbox"/> Drug Court <input type="checkbox"/> Community Based Alternative - Specify _____		Years _____ Months _____ Days _____ Effective: _____	Alternative Sentence: <input type="checkbox"/> Probation <input type="checkbox"/> Diversion <input type="checkbox"/> Drug Court <input type="checkbox"/> Community Based Alternative - Specify _____	
Court Ordered Fees and Fines: <u>\$</u> Court Costs <input type="checkbox"/> Defendant <input type="checkbox"/> State <u>\$</u> Fine Assessed <u>\$</u> Traumatic Brain Injury Fund (Drag Racing) <u>\$</u> Drug Testing Fund (TN Drug Control Act) <u>\$</u> CICF <u>\$</u> Sex Offender Tax <u>\$</u> Other: _____		Restitution: Victim Name _____ Address _____ Total Amount \$ _____ Per Month \$ _____ <input type="checkbox"/> Unpaid Community Service: _____ Hours _____ Days _____ Weeks _____ Months		

The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.
 Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.
 Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.

<u>Jail Fees Waived</u>	
-------------------------	--

James C. Beasley, Jr. Judge's Name	Judge's Signature	Date of Entry of Judgment
<u>1-25-10</u>	<u>1-25-10</u>	<u>1-25-10</u>

Attorney for State/Signature (optional): _____

Defendant/Defendant's Attorney/Signature

CC7-11
 CR-3419 (Rev.1/08) RDA 1167

Exhibit(F-1)

IN THE CRIMINAL/CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE

Case Number: 09-02890 Count # 1 Attorney for the State: A Spirella
 Judicial District: 39th Judicial Division: 10 Counsel for Defendant: Ruby Wink
State of Tennessee
 vs.
 Defendant: Michael Bailey Alias:
 Date of Birth: 6-20-69 Sex: M Race: B SSN: 408-35-9529
 Indictment Filing Date: 4-30-09 TDOC # 22117 State Control #
 State ID # County Offender ID # 103531

Retained Appointed Public Defender
 Counsel Waived Pro Se

JUDGMENT

Original Amended Corrected

Comes the District Attorney General for the State and the defendant with counsel of record for entry of judgment.
 On the 25 day of Jan, 2010, the defendant:

<input checked="" type="checkbox"/> Pled Guilty <input type="checkbox"/> Dismissed/Nolle Prosequi <input type="checkbox"/> Nolo Contendere <input type="checkbox"/> Retired/Unapprehended Defendant <input type="checkbox"/> Guilty Plea – Pursuant to 40-35-313	Indictment: Class (circle one) <u>1st A (B) C D E</u> <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Offense: <u>Agg. Robbery</u> Amended Charge: Offense Date: <u>10-17-2008</u> County: <u>Shelby</u> Conviction Offense: <u>Agg. Robbery</u> Is this conviction offense methamphetamine related? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No TCA #: <u>39-13-402</u> Sentence Imposed Date: <u>1-25-10</u> Conviction: Class (circle one) <u>1st A (B) C D E</u> <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor
Is found: <input type="checkbox"/> Jury Verdict <input type="checkbox"/> Guilty <input type="checkbox"/> Not.Guilty. <input type="checkbox"/> Bench Trial <input type="checkbox"/> Not Guilty by Reason of Insanity	

After considering the evidence, the entire record, & all factors in T.C.A. Title 40 Chapter 35, all of which are incorporated by reference herein, the Court's findings & rulings are:

Sentence Reform Act of 1989 Offender Status (Check One) <input type="checkbox"/> Release Eligibility (Check One)		Concurrent with: <u>09-0287, 88, 89, 91</u> <u>92, 93</u> Consecutive to:	Pretrial Jail Credit Period(s): <u>7-13-09</u> From <u>12-8-08</u> to <u>1-25-10</u> From _____ to _____ From _____ to _____ From _____ to _____
Sentenced To: <input type="checkbox"/> TDOC <input type="checkbox"/> County Jail <input type="checkbox"/> Workhouse Sentence Length: <u>30</u> Years _____ Months _____ Days _____ Hours _____ Weekends _____ Life <input type="checkbox"/> Life w/out Parole <input type="checkbox"/> Death Mandatory Minimum Sentence Length: <u>39-17-417, 39-13-513, 39-13-514</u> in Drug Free Zone or <u>55-10-401 DUI 4th Offense</u> or <u>39-17-1324 Possession/Employment of Firearm</u>		<u>2010 FEB - 3</u>	
Period of incarceration to be served prior to release on probation: _____ Months _____ Days _____ Hours _____ Weekends _____ Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: _____ % (Misdemeanor Only) Alternative Sentence: <input type="checkbox"/> Probation <input type="checkbox"/> Diversion <input type="checkbox"/> Drug Court <input type="checkbox"/> Community Based Alternative - Specify _____ _____ Years _____ Months _____ Days Effective: _____			
Court Ordered Fees and Fines: Cost to be Paid by \$ _____ Court Costs <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> State \$ _____ Fine Assessed \$ _____ Traumatic Brain Injury Fund (Drag Racing) \$ _____ Drug Testing Fund (TN Drug Control Act) \$ _____ CICF <input type="checkbox"/> Sex Offender Tax \$ _____ Other: _____		Restitution: Victim Name _____ Address _____ Total Amount \$ _____ Per Month \$ _____ <input type="checkbox"/> Unpaid Community Service: _____ Hours _____ Days _____ Weeks _____ Months _____	

The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.

Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.

Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.

Jail Fees Waived

James C. Beasley, Jr.
 Judge's Name

James C. Beasley, Jr.

Judge's Signature

Date of Entry of Judgment

Attorney for State/Signature (optional)

Defendant/Defendant's Attorney/Signature

 CC7-11

CR-3419 (Rev.1/08) RDA 1167

IN THE CRIMINAL/CIRCUIT COURT FOR SHELBY COUNTY, TENNESSEE

Case Number: 09 02887 Count # 1 Counsel for the State: Stacy McEndree
 Judicial District: 30th Judicial Division: 10 Counsel for the Defendant: Taylor Eskridge
State of Tennessee Retained Pub Def Appt Private Atty Appt
 vs. Counsel Waived Pro Se
 Defendant: MICHEAL BAILEY Alias: Date of Birth: 06/20/1969 Sex: M
 Race: B SSN: XXX-XX-9529 Driver License #: Issuing State:
 State ID #: County Offender ID # (if applicable): 000103531 TOMIS/TDOC #:
 Relationship to Victim: Victim's Age:
 State Control #: 790008142067 Arrest Date: Indictment Filing Date: 04/30/2009
JUDGMENT Original Amended Corrected

Comes the District Attorney General for the State and the defendant with counsel of record for entry of judgment.

On the 14.3 day of October, 2014, the defendant:

Pled Guilty Dismissed/Nolle Prosequi
 Pled Nolo Contendere
 Pled Guilty – Certified Question Findings Incorporated by Reference
 Is found: Guilty Not Guilty
 Jury Verdict Not Guilty by Reason of Insanity
 Bench Trial

Indictment: Class (circle one) 1st A C D E Felony Misdemeanor
 Indicted Offense Name AND TCA §: 39-13-402 AGGRAVATED ROBBERY
 Amended Offense Name AND TCA §:
 Offense Date: 11/5/2014 County of Offense: SHELBY
 Conviction Offense Name AND TCA §: 39-14-402 AGG ROBBERY
 Conviction: Class (circle one) 1st A C D E Felony Misdemeanor
 Is this conviction offense methamphetamine related? Yes No
 Sentence Imposed Date:

After considering the evidence, the entire record, and in the case of sentencing, all factors in Tennessee Code Annotated Title 40, Chapter 35, all of which are incorporated by reference herein, it is ORDERED and ADJUDGED that the conviction described above is imposed hereby and that a sentence and costs are imposed as follows:

Offender Status (Check One)	Release Eligibility (Check One)	Concurrent with:	Pretrial Jail Credit Period(s):
<input type="checkbox"/> Mitigated <input type="checkbox"/> Standard <input type="checkbox"/> Multiple <input type="checkbox"/> Persistent <input type="checkbox"/> Career <input checked="" type="checkbox"/> Repeat Violent	<input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Mitigated 30% <input type="checkbox"/> Standard 30% <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Persistent 45% <input type="checkbox"/> Career 60% <input type="checkbox"/> Agg Rob 85% <input type="checkbox"/> Violent 100% <input checked="" type="checkbox"/> Repeat Viol 100%	<input type="checkbox"/> Agg Rob w/Prior 100% <input type="checkbox"/> Multiple Rapist 100% <input type="checkbox"/> Child Rapist 100% <input type="checkbox"/> Child Predator 100% <input type="checkbox"/> Agg Rapist 100% <input type="checkbox"/> Mult 39-17-1324 100% <input type="checkbox"/> Alt 1 st Degree Murder w/SBI 85% <input type="checkbox"/> Agg Child Neglect/Endangerment 70% <input type="checkbox"/> Agg Assault w/Death 75%	<input type="checkbox"/> 1 st Degree Murder <input type="checkbox"/> Drug Free Zone <input type="checkbox"/> Gang Related
		09-02889	From 12-08-08 to 1-25-10
		Consecutive to:	From _____ to _____
			From _____ to _____
			From _____ to _____

Sentenced To: TDOC County Jail Workhouse

Sentence Length: _____ Years _____ Months _____ Days _____ Hours Life Life w/out Parole Death

Mandatory Minimum Sentence Length: 39-17-417, 39-13-513, 39-13-514, or 39-17-432 in Prohibited Zone or 55-10-401 DUI 4th Offense
 or 39-17-1324 Possession/Employment of Firearm or 40-39-208, -211 Violation of Sex Offender Registry

Period of incarceration to be served prior to release on probation or Community Corrections: _____ Months _____ Days _____ Hours

Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: % (Misdemeanor Only)

Alternative Sentence: Sup Prob Unsup Prob Comm Corr (CHECK ONE BOX) _____ Years _____ Months _____ Days Effective: _____

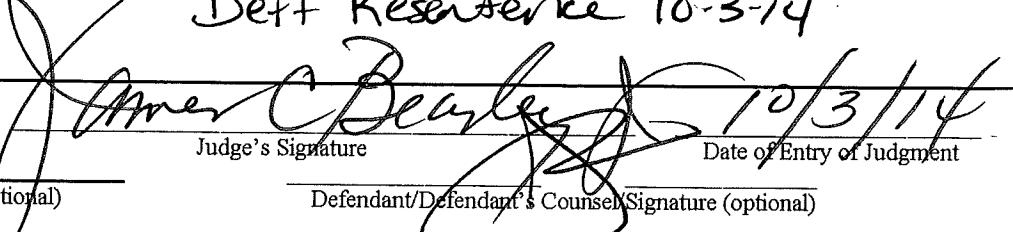
WAS DRUG COURT ORDERED AS A CONDITION OF THE ALTERNATIVE SENTENCE? Yes No

Court Ordered Fees and Fines:	Costs to be Paid by	Restitution: Victim Name
\$ _____ Court Costs	Defendant <input type="checkbox"/> State	Address _____
\$ _____ Fine Assessed		Total Amount \$ _____ Per Month \$ _____
\$ _____ Traumatic Brain Injury Fund (68-55-301 et seq.)		
\$ _____ Drug Testing Fund (TN Drug Control Act)		
\$ _____ CICF	\$ _____ Sex Offender Tax	<input type="checkbox"/> Unpaid Community Service: _____ Hours _____ Days _____ Weeks _____ Months
\$ _____ Other:		

- The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.
 Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.
 Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.
 Pursuant to Title 68, Chapter 11, Part 10, the clerk shall forward this judgment to the Department of Health.

Special Conditions

Deft Resentence 10-3-14

James C. Beasley, Jr. 
 Judge's Name 10/3/14
 Judge's Signature Date of Entry of Judgment

Counsel for State Signature (optional)

Defendant/Defendant's Counsel Signature (optional)



10-3-14
 Richard DeSassure, Clerk
 BY

You are hereby commanded to take the body of the defendant, herein named, it to be found in our County Jail of Shelby County, Tennessee, thereafter to execute the Judgment of the Court according to the sentence imposed, as shown on the attached Judgment, or until said defendant be otherwise discharged according to the law.

Be it further noted that the defendant has currently pending in the Criminal Courts of Shelby County, Tennessee, the following indictments being still subject to the orders of this Court.

WITNESS, KEVIN P. KEY, Clerk of the Criminal Court of Shelby County, Tennessee, at office in Memphis, Tennessee.

State of Tennessee
COUNTY OF SHELBY

I, KEVIN P. KEY, Clerk of the Criminal Court of Shelby County, Tennessee, do hereby certify that the above said and attached Judgment is a true and perfect transcript of Judgment and currently pending indictments in the matter of the State of Tennessee vs. the herein named defendant and indictments as they appear in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of this Court, at office, in the City of Memphis, Tennessee, this the 14 day of Nov., 2014.

RECORD & IDENTIFICATION NUMBER

KEVIN P. KEY, CLERK

BY: Claron

DOCKET NUMBERS:

are over/under conviction (s) to Shelby County Jail/S C C C/Penitentiary for a period of

ORDERS ATTACHED TO JUDGMENT:

Ord Overruling Motion for new trial 11-13-14

IN THE CRIMINAL/CIRCUIT COURT FOR SHELBY COUNTY, TENNESSEE

Case Number: 09 02887 Count # 2 Counsel for the State: _____
 Judicial District: 30th Judicial Division: 10 Counsel for the Defendant: _____
State of Tennessee Retained Pub Def Appt Private Atty Appt
 vs. Counsel Waived Pro Se
 Defendant: MICHEAL BAILEY Alias: _____ Date of Birth: 06/20/1969 Sex: M
 Race: B SSN: XXX-XX-9529 Driver License #: _____ Issuing State: _____
 State ID #: _____ County Offender ID # (if applicable): 000103531 TOMIS/TDOC #: _____
 Relationship to Victim: _____ Victim's Age: _____
 State Control #: 790008142067 Arrest Date: _____ Indictment Filing Date: 04/30/2009
JUDGMENT Original Amended Corrected

Comes the District Attorney General for the State and the defendant with counsel of record for entry of judgment.

On the 19th 3 day of May Oct, 20 2014, the defendant:

Pled Guilty Dismissed/Nolle Prosequi
 Pled Nolo Contendere
 Pled Guilty – Certified Question Findings Incorporated by Reference
 Is found: Guilty Not Guilty
 Jury Verdict Not Guilty by Reason of Insanity
 Bench Trial

Indictment: Class (circle one) 1st A B D E Felony Misdemeanor
 Indicted Offense Name AND TCA §: 39-13-102 AGGRAVATED ASSAULT
 Amended Offense Name AND TCA §:
 Offense Date: 11/5/2014 County of Offense: SHELBY
 Conviction Offense Name AND TCA §: 39-13-102 AGG ASSAULT
 Conviction: Class (circle one) 1st A B D E Felony Misdemeanor
 Is this conviction offense methamphetamine related? Yes No
 Sentence Imposed Date: _____

After considering the evidence, the entire record, and in the case of sentencing, all factors in Tennessee Code Annotated Title 40, Chapter 35, all of which are incorporated by reference herein, it is ORDERED and ADJUDGED that the conviction described above is imposed hereby and that a sentence and costs are imposed as follows:

Offender Status (Check One)	Release Eligibility (Check One)	Concurrent with	Pretrial Jail Credit Period(s):
<input type="checkbox"/> Mitigated <input type="checkbox"/> Standard <input type="checkbox"/> Multiple <input type="checkbox"/> Persistent <input checked="" type="checkbox"/> Career <input type="checkbox"/> Repeat Violent	<input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Mitigated 30% <input type="checkbox"/> Standard 30% <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Persistent 45% <input checked="" type="checkbox"/> Career 60% <input type="checkbox"/> Agg Rob 85% <input type="checkbox"/> Violent 100% <input type="checkbox"/> Repeat Viol 100%	<input type="checkbox"/> Agg Rob w/Prior 100% <input type="checkbox"/> Multiple Rapist 100% <input type="checkbox"/> Child Rapist 100% <input type="checkbox"/> Child Predator 100% <input type="checkbox"/> Agg Rapist 100% <input type="checkbox"/> Mult 39-17-1324 100% <input type="checkbox"/> Att 1 st Degree Murder w/SBI 85% <input type="checkbox"/> Agg Child Neglect/Endangerment 70% <input type="checkbox"/> Agg Assault w/Death 75%	<input type="checkbox"/> 1 st Degree Murder <input type="checkbox"/> Drug Free Zone <input type="checkbox"/> Gang Related
		<i>Court 09-02887</i>	<i>From 12-8-08 to 12-5-10</i> <i>From _____ to _____</i> <i>From _____ to _____</i> <i>From _____ to _____</i>
		Consecutive to:	

Sentenced To: TDOC County Jail Workhouse

Sentence Length: 15 Years Months Days Hours Life Life w/out Parole Death

Mandatory Minimum Sentence Length: 39-17-417, 39-13-513, 39-13-514, or 39-17-432 in Prohibited Zone or 55-10-401 DUI 4th Offense
 or 39-17-1324 Possession/Employment of Firearm or 40-39-208, -211 Violation of Sex Offender Registry

Period of incarceration to be served prior to release on probation or Community Corrections: Months Days Hours

Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: % (Misdemeanor Only)

Alternative Sentence: Sup Prob Unsup Prob Comm Corr (CHECK ONE BOX) Years Months Days Effective: _____

WAS DRUG COURT ORDERED AS A CONDITION OF THE ALTERNATIVE SENTENCE? Yes No

Court Ordered Fees and Fines:	Costs to be Paid by	Restitution: Victim Name _____ Address _____
\$ _____ Court Costs	Defendant	
\$ _____ Fine Assessed	State	
\$ _____ Traumatic Brain Injury Fund (68-55-301 et seq.)		
\$ _____ Drug Testing Fund (TN Drug Control Act)		
\$ _____ CICF	\$ _____ Sex Offender Tax	Total Amount \$ _____ Per Month \$ _____
\$ _____ Other:		<input type="checkbox"/> Unpaid Community Service: Hours Days Weeks Months

The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.
 Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.
 Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.
 Pursuant to Title 68, Chapter 11, Part 10, the clerk shall forward this judgment to the Department of Health.

Deft Resentence 10-3-14

James C. Beasley, Jr.

Judge's Name

Judge's Signature

Date of Entry of Judgment

Counsel for State/Signature (optional)

Defendant/Defendant's Counsel/Signature (optional)



Filed 10-3-14
 Richard DeSaussure, Clerk

You are hereby commanded to take the body of the defendant, herein named, it to be found in our County Jail of Shelby County, Tennessee, thereafter to execute the Judgment of the Court according to the sentence imposed as shown on the attached Judgment, or until said defendant be otherwise discharged according to the law.

Be it further noted that the defendant has currently pending in the Criminal Courts of Shelby County, Tennessee, the following indictments being still subject to the orders of this Court.

WITNESS, KEVIN P. KEY, Clerk of the Criminal Court of Shelby County, Tennessee, at office in Memphis, Tennessee.

State of Tennessee
COUNTY OF SHELBY

I, KEVIN P. KEY, Clerk of the Criminal Court of Shelby County, Tennessee, do hereby certify that the above said and attached Judgment is a true and perfect transcript of Judgment and currently pending indictments in the matter of the State of Tennessee vs. the herein named defendant and indictments as they appear in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of this Court, at office, in the City of Memphis, Tennessee,
this the 19 day of Nov, 2019.

RECORD & IDENTIFICATION NUMBER
103539

KEVIN R. KEY CLERK

BY: Curran

DOCKET NUMBERS: _____

are over/under conviction (s) to Shelby County Jail/S.C.C.C/Penitentiary for a period of _____

ORDERS ATTACHED TO JUDGMENT:
Ord. Overruling motion for new trial 11-1314

Exhibit (F-2)

IN THE CRIMINAL/CIRCUIT COURT OF SHELBY COUNTY, TENNESSEE

Case Number: 09-02888

Count # 1

Attorney for the State:

Judicial District: 30th

Judicial Division:

10

Counsel for Defendant:

A. Spineti

Rue White

State of Tennessee

vs.

Defendant: Michael Bailey

Date of Birth: 6-20-69

Sex: M

Race: B

Indictment Filing Date: 4-30-09

TDOC #

SSN: 408-35-9529

State ID #

State Control #

County Offender ID #

103531

JUDGMENT

 Original Amended Corrected

Comes the District Attorney General for the State and the defendant with counsel of record for entry of judgment.

On the 25 day of Jan

2009, the defendant:

Pled Guilty Dismissed/Nolle Prosequi
 Nolo Contendere Retired/Unapprehended Defendant
 Guilty Plea - Pursuant to 40-35-313

Is found: Guilty Not Guilty
 Jury Verdict Not Guilty by Reason of Insanity
 Bench Trial

Indictment: Class (circle one) 1st A B C D E Felony Misdemeanor
Offense: Agg. Robbery
Amended Charge: Agg. Robbery
Offense Date: 10-14-2008 County: Shelby
Conviction Offense: Agg. Robbery
Is this conviction offense methamphetamine related? Yes No
TCA #: 39-13-402 Sentence Imposed Date: 1-25-10
Conviction: Class (circle one) 1st A B C D E Felony Misdemeanor

After considering the evidence, the entire record, & all factors in T.C.A. Title 40 Chapter 35, all of which are incorporated by reference herein, the Court's findings & rulings are:

Sentence Reform Act of 1989		Release Eligibility (Check One)		Concurrent with:		Pretrial Jail Credit Period(s):	
Offender Status (Check One)				09-0287, 89, 90, 91		From 7-13-09 to 1-25-10	
<input type="checkbox"/> Mitigated <input type="checkbox"/> Standard <input type="checkbox"/> Multiple <input checked="" type="checkbox"/> Persistent <input checked="" type="checkbox"/> Career <input type="checkbox"/> Repeat Violent		<input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Mitigated 30% <input type="checkbox"/> Standard 30% <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Persistent 45% <input checked="" type="checkbox"/> Career 60% <input type="checkbox"/> Violent 100%		<input type="checkbox"/> Multiple Rapist 100% <input type="checkbox"/> Child Rapist 100% <input type="checkbox"/> Repeat Violent 100% <input type="checkbox"/> Child Predator 100%		From _____ to _____ From _____ to _____ From _____ to _____	
Sentenced To:		<input checked="" type="checkbox"/> TDOC <input type="checkbox"/> County Jail <input type="checkbox"/> Workhouse		Consecutive to:			
Sentence Length: 30 Years		Months	Days	Hours	Weekends	<input type="checkbox"/> Life <input type="checkbox"/> Life w/out Parole <input type="checkbox"/> Death	
Mandatory Minimum Sentence Length: 39-17-417, 39-13-513, 39-13-514 in Drug Free Zone or		55-10-401 DUI 4 th Offense					
or 39-17-1324 Possession/Employment of Firearm							
Period of incarceration to be served prior to release on probation:		Months	Days	Hours	Weekends		
Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs:		% (Misdemeanor Only)					
Alternative Sentence: <input type="checkbox"/> Probation <input type="checkbox"/> Diversion <input type="checkbox"/> Drug Court		<input type="checkbox"/> Community Based Alternative - Specify					
Years _____ Months _____ Days _____		Effective: _____					
Court Ordered Fees and Fines:		Cost to be Paid by:		Restitution: Victim Name _____			
\$ Court Costs		<input checked="" type="checkbox"/> Defendant <input type="checkbox"/> State <input type="checkbox"/> Fine Assessed		Address _____			
\$ Traumatic Brain Injury Fund (Drag Racing)				Total Amount \$ _____		Per Month \$ _____	
\$ Drug Testing Fund (TN Drug Control Act)				<input type="checkbox"/> Unpaid Community Service: Hours _____ Days _____ Weeks _____ Months _____			
\$ CICF		\$ _____ Sex Offender Tax					
\$ Other:							

The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.

 Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing. Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.

Jail Fees Waived

James C. Beasley, Jr.

Judge's Name

Judge's Signature

Date of Entry of Judgment

Attorney for State/Signature (optional)

Defendant/Defendant's Attorney/Signature



CR-3419 (Rev.1/08) RDA 1167

1(2)

You are hereby commanded to take the body of the defendant, herein named, it to be found in your County Jail of Shelby County, Tennessee, thereafter to execute the Judgment of the Court according to the sentence imposed as shown on the attached Judgment, or until said defendant be otherwise discharged according to the law.

Be it further noted that the defendant has currently pending in the Criminal Courts of Shelby County, Tennessee the following indictments being still subject to the orders of this Court.

WITNESS, WILLIAM R. KEY, Clerk of the Criminal Court of Shelby County, Tennessee, at office in Memphis, Tennessee.

State of Tennessee

COUNTY OF SHELBY

I, WILLIAM R. KEY, Clerk of the Criminal Court of Shelby County, Tennessee, do hereby certify that the above said and attached Judgment is a true and perfect transcript of Judgment and currently pending indictments in the matter of the State of Tennessee vs. the herein named defendant and indictments as they appear in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of this Court, at office, in the City of Memphis, Tennessee, this the 25 day of January, 2010.

RECORD & IDENTIFICATION NUMBER

WILLIAM R. KEY, CLERK

BY

DOCKET NUMBERS: _____
are over/under conviction(s) to Shelby County Jail/S.C.C.C/Penitentiary for a period of _____

ORDERS ATTACHED TO JUDGMENT:

IN THE CRIMINAL/CIRCUIT COURT FOR SHELBY COUNTY, TENNESSEE

Exhibit (F-8)

Case Number: 09 02889 Count # 1 Counsel for the State: Stacy McEndree
 Judicial District: 30th Judicial Division: 10 Counsel for the Defendant: Taylor Eskridge
State of Tennessee
 vs.
 Defendant: MICHAEL BAILEY Alias: _____ Date of Birth: 06/20/1969 Sex: M
 Race: B SSN: XXX-XX-9529 Driver License #: _____ Issuing State: _____
 State ID #: _____ County Offender ID # (if applicable): 000103531 TOMIS/TDOC #: _____
 Relationship to Victim: _____ Victim's Age: _____
 State Control #: 790009614699 Arrest Date: _____ Indictment Filing Date: 04/30/2009

JUDGMENT Original Amended Corrected

Filed
Richard DeSaussure, Clerk
BY

Comes the District Attorney General for the State and the defendant with counsel of record for entry of judgment.

On the 19th 3 day of May October, 2014, the defendant:

Pled Guilty Dismissed/Nolle Prosequi
 Pled Nolo Contendere
 Pled Guilty - Certified Question Findings Incorporated by Reference
 Is found: Guilty Not Guilty
 Jury Verdict Not Guilty by Reason of Insanity
 Bench Trial

Indictment: Class (circle one) 1st A C D E Felony Misdemeanor
 Indicted Offense Name AND TCA §: 39-13-402 AGGRAVATED ROBBERY
 Amended Offense Name AND TCA §: _____
 Offense Date: 10/15/2008 County of Offense: SHELBY
 Conviction Offense Name AND TCA §: 39-13-402 AGG ROBB
 Conviction: Class (circle one) 1st A C D E Felony Misdemeanor
 Is this conviction offense methamphetamine related? Yes No
 Sentence Imposed Date: _____

After considering the evidence, the entire record, and in the case of sentencing, all factors in Tennessee Code Annotated Title 40, Chapter 35, all of which are incorporated by reference herein, it is ORDERED and ADJUDGED that the conviction described above is imposed hereby and that a sentence and costs are imposed as follows:

Offender Status (Check One)	Release Eligibility (Check One)	Concurrent with:	Pretrial Jail Credit Period(s):
<input type="checkbox"/> Mitigated <input type="checkbox"/> Standard <input type="checkbox"/> Multiple <input type="checkbox"/> Persistent <input type="checkbox"/> Career <input checked="" type="checkbox"/> Repeat Violent	<input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Mitigated 30% <input type="checkbox"/> Standard 30% <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Persistent 45% <input type="checkbox"/> Career 60% <input type="checkbox"/> Agg Rob 85% <input type="checkbox"/> Violent 100% <input checked="" type="checkbox"/> Repeat Viol 100%	<input type="checkbox"/> Agg Rob w/Prior 100% <input type="checkbox"/> Multiple Rapist 100% <input type="checkbox"/> Child Rapist 100% <input type="checkbox"/> Child Predator 100% <input type="checkbox"/> Agg Rapist 100% <input type="checkbox"/> Multi 39-17-1324 100% <input type="checkbox"/> Alt 1 st Degree Murder w/SBI 85% <input type="checkbox"/> Agg Child Neglect/Endangerment 70% <input type="checkbox"/> Agg Assault w/Death 75%	<input type="checkbox"/> 1 st Degree Murder <input type="checkbox"/> Drug Free Zone <input type="checkbox"/> Gang Related
		Consecutive to:	From 7-13-09 to 1-25-10
			From _____ to _____
			From _____ to _____
			From _____ to _____

Sentenced To: TDOC County Jail Workhouse

Sentence Length: _____ Years _____ Months _____ Days _____ Hours Life Life w/out Parole Death

Mandatory Minimum Sentence Length: 39-17-417, 39-13-513, 39-13-514, or 39-17-432 in Prohibited Zone or 55-10-401 DUI 4th Offense
 or 39-17-1324 Possession/Employment of Firearm or 40-39-208, -211 Violation of Sex Offender Registry

Period of incarceration to be served prior to release on probation or Community Corrections: _____ Months _____ Days _____ Hours

Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: % (Misdemeanor Only)

Alternative Sentence: Sup Prob Unsup Prob Comm Corr (CHECK ONE BOX) _____ Years _____ Months _____ Days Effective: _____

WAS DRUG COURT ORDERED AS A CONDITION OF THE ALTERNATIVE SENTENCE? Yes No

Court Ordered Fees and Fines:	Costs to be Paid by	Restitution: Victim Name
\$ _____ Court Costs	Defendant State	Address _____
\$ _____ Fine Assessed		Total Amount \$ _____ Per Month \$ _____
\$ _____ Traumatic Brain Injury Fund (68-55-301 et seq.)		
\$ _____ Drug Testing Fund (TN Drug Control Act)		
\$ _____ CICF	\$ _____ Sex Offender Tax	
\$ _____ Other:		<input type="checkbox"/> Unpaid Community Service: _____ Hours _____ Days _____ Weeks _____ Months

The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.
 Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.

Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.

Pursuant to Title 68, Chapter 11, Part 10, the clerk shall forward this judgment to the Department of Health.

Special Conditions

James C. Beasley, Jr.
 Judge's Name

Judge's Signature

Date of Entry of Judgment

Counsel for State/Signature (optional)

Defendant/Defendant's Counsel/Signature (optional)

I _____, clerk, hereby certify that, before entry by the court, a copy of this judgment was made available to the party or parties who did not provide a signature above.

Case 3:22-cv-00149 Document 1 Filed 03/01/22 Page 50 of 55 PageID #: 50

You are hereby commanded to take the body of the defendant, herein named, it to be found in our County Jail of Shelby County, Tennessee, thereafter to execute the Judgment of the Court according to the sentence imposed as shown on the attached Judgment, or until said defendant be otherwise discharged according to the law.

Be it further noted that the defendant has currently pending in the Criminal Courts of Shelby County, Tennessee, the following indictments being still subject to the orders of this Court.

<u>INDICTMENT</u>	<u>COURT DIVISION</u>	<u>OFFENSE</u>
1	2	3
4	5	6
7	8	9
10	11	12
13	14	15
16	17	18
19	20	21
22	23	24
25	26	27
28	29	30
31	32	33
34	35	36
37	38	39
40	41	42
43	44	45
46	47	48
49	50	51
52	53	54
55	56	57
58	59	60
61	62	63
64	65	66
67	68	69
70	71	72
73	74	75
76	77	78
79	80	81
82	83	84
85	86	87
88	89	90
91	92	93
94	95	96
97	98	99
100	101	102
103	104	105
106	107	108
109	110	111
112	113	114
115	116	117
118	119	120
121	122	123
124	125	126
127	128	129
130	131	132
133	134	135
136	137	138
139	140	141
142	143	144
145	146	147
148	149	150
151	152	153
154	155	156
157	158	159
160	161	162
163	164	165
166	167	168
169	170	171
172	173	174
175	176	177
178	179	180
181	182	183
184	185	186
187	188	189
190	191	192
193	194	195
196	197	198
199	200	201
202	203	204
205	206	207
208	209	210
211	212	213
214	215	216
217	218	219
220	221	222
223	224	225
226	227	228
229	230	231
232	233	234
235	236	237
238	239	240
241	242	243
244	245	246
247	248	249
250	251	252
253	254	255
256	257	258
259	260	261
262	263	264
265	266	267
268	269	270
271	272	273
274	275	276
277	278	279
280	281	282
283	284	285
286	287	288
289	290	291
292	293	294
295	296	297
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315	316	317
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320	321	322
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415	416	417
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420	421	422
423	424	425
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492	493	494
495	496	497
498	499	498
500	501	502
503	504	505
506	507	508
509	510	511
512	513	514
515	516	517
518	519	518
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540	541	542
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646	647	648
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652	653	654
655	656	657
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660	661	662
663	664	665
666	667	668
669	670	669
672	673	674
675	676	677
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692	693	694
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698	699	698
700	701	702
703	704	705
706	707	708
709	710	711
712	713	714
715	716	717
718	719	718
720	721	722
723	724	725
726	727	728
729	730	729
732	733	734
735	736	737
738	739	738
740	741	742
743	744	745
746	747	748
749	750	749
752	753	754
755	756	757
758	759	758
760	761	762
763	764	765
766	767	768
769	770	769
772	773	774
775	776	777
778	779	778
780	781	782
783	784	785
786	787	788
789	790	789
792	793	794
795	796	797
798	799	798
800	801	802
803	804	805
806	807	808
809	810	811
812	813	814
815	816	817
818	819	818
820	821	822
823	824	825
826	827	828
829	830	829
832	833	834
835	836	837
838	839	838
840	841	842
843	844	845
846	847	848
849	850	849
852	853	854
855	856	857
858	859	858
860	861	862
863	864	865
866	867	868
869	870	869
872	873	874
875	876	877
878	879	878
880	881	882
883	884	885
886	887	888
889	890	889
892	893	894
895	896	897
898	899	898
900	901	902
903	904	905
906	907	908
909	910	911
912	913	914
915	916	917
918	919	918
920	921	922
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929	930	929
932	933	934
935	936	937
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949	950	949
952	953	954
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960	961	962
963	964	965
966	967	968
969	970	969
972	973	974
975	976	977
978	979	978
980	981	982
983	984	985
986	987	988
989	990	989
992	993	994
995	996	997
998	999	998
999	999	999

WITNESS, KEVIN P. KEY, Clerk of the Criminal Court of Shelby County, Tennessee, at office in Memphis, Tennessee.

State of Tennessee
COUNTY OF SHELBY

I, KEVIN P. KEY, Clerk of the Criminal Court of Shelby County, Tennessee, do hereby certify that the above said and attached Judgment is a true and perfect transcript of Judgment and currently pending indictments in the matter of the State of Tennessee vs. the herein named defendant and indictments as they appear in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of this Court, at office, in the City of Memphis, Tennessee, this the 14 day of Nov., 2019.

RECORD & IDENTIFICATION NUMBER

103531

KEVIN P. KEY, CLERK

BY: Colatzen

DOCKET NUMBERS:

are over/under conviction (s) to Shelby County Jail/S.C.C.C/Penitentiary for a period of

ORDERS ATTACHED TO JUDGMENT:

2nd overruling motion for new trial 11-13-14

IN THE CRIMINAL/CIRCUIT

COURT FOR

SHELBY

COUNTY, TENNESSEE

Case Number: 09 02890 Count # 1 Counsel for the State: Stacy McEndree
 Judicial District: 30th Judicial Division: 10 Counsel for the Defendant: Taylor Eskridge
State of Tennessee
 vs.
 Defendant: MICHAEL BAILEY Alias: _____ Date of Birth: 06/20/1969 Sex: M
 Race: B SSN: XXX-XX-9529 Driver License #: _____ Issuing State: _____
 State ID #: _____ County Offender ID # (if applicable): 000103531 TOMIS/TDOC #: _____
 Relationship to Victim: _____ Victim's Age: _____
 State Control #: 790009614699 Arrest Date: _____ Indictment Filing Date: 04/30/2009

JUDGMENT Original Amended Corrected

Comes the District Attorney General for the State and the defendant with counsel of record for entry of judgment.

On the 19th 3 day of May October, 2014, the defendant:

Pled Guilty Dismissed/Nolle Prosequi
 Pled Nolo Contendere
 Pled Guilty – Certified Question Findings Incorporated by Reference
 Is found: Guilty Not Guilty
 Jury Verdict Not Guilty by Reason of Insanity
 Bench Trial

Indictment: Class (circle one) 1st A C D E Felony Misdemeanor
 Indicted Offense Name AND TCA §: 39-13-402 AGGRAVATED ROBBERY
 Amended Offense Name AND TCA §: _____
 Offense Date: 10/17/2008 County of Offense: SHELBY
 Conviction Offense Name AND TCA §: 39-13-402 AGG ROBBERY
 Conviction: Class (circle one) 1st A C D E Felony Misdemeanor
 Is this conviction offense methamphetamine related? Yes No
 Sentence Imposed Date: _____

After considering the evidence, the entire record, and in the case of sentencing, all factors in Tennessee Code Annotated Title 40, Chapter 35, all of which are incorporated by reference herein, it is ORDERED and ADJUDGED that the conviction described above is imposed hereby and that a sentence and costs are imposed as follows:

Offender Status (Check One)	Release Eligibility (Check One)	Concurrent with:	Pretrial Jail Credit Period(s):
<input type="checkbox"/> Mitigated <input type="checkbox"/> Standard <input type="checkbox"/> Multiple <input type="checkbox"/> Persistent <input type="checkbox"/> Career <input checked="" type="checkbox"/> Repeat Violent	<input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Agg Rob w/Prior 100% <input type="checkbox"/> 1 st Degree Murder <input type="checkbox"/> Mitigated 30% <input type="checkbox"/> Multiple Rapist 100% <input type="checkbox"/> Drug Free Zone <input type="checkbox"/> Standard 30% <input type="checkbox"/> Child Rapist 100% <input type="checkbox"/> Gang Related <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Child Predator 100% <input type="checkbox"/> Persistent 45% <input type="checkbox"/> Agg Rapist 100% <input type="checkbox"/> Career 60% <input type="checkbox"/> Mult 39-17-1324 100% <input type="checkbox"/> Agg Rob 85% <input type="checkbox"/> Att 1 st Degree Murder w/SBI 85% <input type="checkbox"/> Violent 100% <input type="checkbox"/> Agg Child Neglect/Endangerment 70% <input checked="" type="checkbox"/> Repeat Viol 100% <input type="checkbox"/> Agg Assault w/Death 75%	0902889	From 7-13-09 to 1-25-10
		Consecutive to:	From _____ to _____
			From _____ to _____
			From _____ to _____

Sentenced To: TDOC County Jail Workhouse

Sentence Length: _____ Years _____ Months _____ Days _____ Hours Life Life w/out Parole Death

Mandatory Minimum Sentence Length: 39-17-417, 39-13-513, 39-13-514, or 39-17-432 in Prohibited Zone or 55-10-401 DUI 4th Offense
 or 39-17-1324 Possession/Employment of Firearm or 40-39-208, -211 Violation of Sex Offender Registry

Period of incarceration to be served prior to release on probation or Community Corrections: _____ Months _____ Days _____ Hours

Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: % (Misdemeanor Only)

Alternative Sentence: Sup Prob Unsup Prob Comm Corr (CHECK ONE BOX) _____ Years _____ Months _____ Days Effective: _____

WAS DRUG COURT ORDERED AS A CONDITION OF THE ALTERNATIVE SENTENCE? Yes No

Court Ordered Fees and Fines:	Costs to be Paid by	Restitution: Victim Name _____ Address _____
\$ _____ Court Costs	<input checked="" type="checkbox"/> Defendant <input type="checkbox"/> State	Total Amount \$ _____ Per Month \$ _____
\$ _____ Fine Assessed		<input type="checkbox"/> Unpaid Community Service: _____ Hours _____ Days _____ Weeks _____ Months
\$ _____ Traumatic Brain Injury Fund (68-55-301 et seq.)		
\$ _____ Drug Testing Fund (TN Drug Control Act)		
\$ _____ CICF	\$ _____ Sex Offender Tax	
\$ _____ Other:		

The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.
 Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.
 Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.
 Pursuant to Title 68, Chapter 11, Part 10, the clerk shall forward this judgment to the Department of Health.

Special Conditions

Deft Resentenced 10-3-14

James C. Beasley, Jr.

Judge's Name

Judge's Signature

Date of Entry of Judgment

Counsel for State/Signature (optional)

Defendant/Defendant's Counsel/Signature (optional)

I, **Case 3-22-cv-00149 Document 1 Filed 03/01/22 Page 52 of 55 PageID# 52**, hereby certify that before entry by the court, no party to this judgment has been advised of the contents of this judgment. The parties or parties who did not provide a signature above.

0-2
 Filed
 Richard DeSaussure, Clerk
 BY

You are hereby commanded to take the body of the defendant, herein named, it to be found in your County Jail of Shelby County, Tennessee, thereafter to execute the Judgment of the Court according to the sentence imposed as shown on the attached Judgment, or until said defendant be otherwise discharged according to the law.

Be it further noted that the defendant has currently pending in the Criminal Courts of Shelby County, Tennessee, the following indictments being still subject to the orders of this Court.

WITNESS, KEVIN P. KEY, Clerk of the Criminal Court of Shelby County, Tennessee, at office in Memphis, Tennessee.

State of Tennessee
COUNTY OF SHELBY

I, KEVIN P. KEY, Clerk of the Criminal Court of Shelby County, Tennessee, do hereby certify that the above said and attached Judgment is a true and perfect transcript of Judgment and currently pending indictments in the matter of the State of Tennessee vs. the herein named defendant and indictments as they appear in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of this Court, at office, in the City of Memphis, Tennessee, this the 24 day of Nov , 2019 .

RECORD & IDENTIFICATION NUMBER

KEVIN P. KEY, CLERK

BY: *Clarion*

DOCKET NUMBERS:

are over/under conviction (s) to Shelby County Jail/S.C.C.C/Penitentiary for a period of

ORDERS ATTACHED TO JUDGMENT:

Ordered overruling motion for new trial 11-1314

Paupers Oath

I hereby, Do Solemnly Swear, that Owing
to my Poverty, I am not able to bear
The Expense of the Action which I am
About to Commence, and that I am
Justly Entitled to the Relief Sought to the
Best of my Knowledge and belief, Executed on

21 day of February, 2022,

Signature's
Michael B. Bailey, #221117

Michael B. Bailey #221117

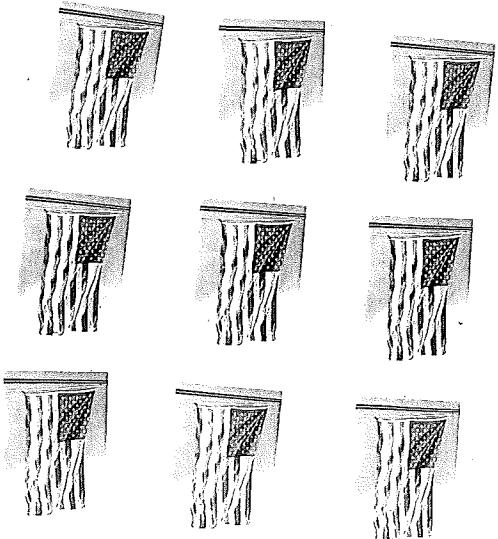
RMSI

1475 Cockrell Bend Blvd.

Nashville, TN 37209

RECEIVED
in Clerk's Office

MAR 01 2022



U.S. District Court

Middle District

Clerk of The Court

801 Broadway, Rm. 800

U.S. Courthouse

Nashville, TN 37203

RECEIVED

FEB 23 2022

RMSI MAILROOM
COURT-COMMERCIAL